Montana Legislative History

Chapter: 520 Session L: 2021

Bill Number: HB 459

Checklist of Bill History

History and Final Status Sheet	x
Introduced Bill	X
Fiscal Note	X
Third Reading Bill	X
Final Version of Bill	X

House

Committee:
Judiciary

Hearing Date(s):
2/22/21 (Hearing and Exec. Action)

Senate

Committee:
Public Health, Welfare, and Safety

Hearing Date(s):
3/19/21
3/24/21
(Exec. Action)

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by:

Date:

Notes:

Bill Explorer - HB 459: Provide for certification of CPS workers with direct contact with children

Summary

Sponsoredby: Lenz, Dennis
(R) HD 53

Progress		
Status	**Date**	**Passed**
Introduced	02/24/21	✓
Passed (H) Committee	02/27/21	✓
Passed House	03/25/21	✓
Passed (S) Committee	03/30/21	✓
Passed Senate	04/27/21	✓
To Governor	05/04/21	✓

Draft #	LC0507
Amendment(s)	No
Chapter #	520
Current Status	Chapter Number Assigned
Co-Sponsor(s)	None
Drafter	Hach, Corina

Requester	Lenz, Dennis
Fiscal Note	Yes
Preintroduction Required	No
Category	General Bills
Subject(s)	Rule Making, Family Law (see also: Minors), Professions and Occupations O-Z,
Transmittal Date	03/02/21
Return Date	04/20/21

Sections Affected	Effective Date	Qualifier
All Sections	10/01/2021	

Bill Explorer - HB 459: Provide for certification of CPS workers with direct contact with children

Status

Date	Action	Committee	Yes Votes	No Votes
05/14/21	Chapter Number Assigned			
05/14/21	(H) Signed by Governor			
05/04/21	(H) Transmitted to Governor			
05/04/21	(S) Signed by President			
05/04/21	(H) Signed by Speaker			
05/03/21	(C) Printed - Enrolled Version Available			
05/03/21	(H) Returned from Enrolling			
04/29/21	(H) Sent to Enrolling			
04/29/21	(S) Returned to House Concurred in Governor's Proposed Amendments			
04/29/21	(S) 3rd Reading Governor's Proposed Amendments Adopted		50	0
04/29/21	(S) 2nd Reading Governor's Proposed Amendments Adopted		50	0
04/29/21	(S) Scheduled for 2nd Reading			
04/28/21	(H) Transmitted to Senate for Consideration of Governor's Proposed Amendments			

Date	Action	Committee	Yes Votes	No Votes
04/28/21	(H) 3rd Reading Governor's Proposed Amendments Adopted		79	17
04/28/21	(H) Scheduled for 3rd Reading			
04/28/21	(H) 2nd Reading Governor's Proposed Amendments Adopted		97	3
04/28/21	(H) Scheduled for 2nd Reading			
04/28/21	(H) Returned with Governor's Proposed Amendments			
04/27/21	(H) Transmitted to Governor			
04/27/21	(S) Signed by President			
04/27/21	(H) Signed by Speaker			
04/27/21	(C) Printed - Enrolled Version Available			
04/27/21	(H) Returned from Enrolling			
04/22/21	(H) Sent to Enrolling			
04/22/21	(H) 3rd Reading Passed as Amended by Senate		76	24
04/22/21	(H) Scheduled for 3rd Reading			
04/21/21	(H) 2nd Reading Senate Amendments Concurred		81	18
04/21/21	(H) Scheduled for 2nd Reading			
03/30/21	(S) Returned to House with Amendments			
03/30/21	(S) 3rd Reading Concurred		31	19

Date	Action	Committee	Yes Votes	No Votes
03/30/21	(S) Scheduled for 3rd Reading			
03/29/21	(S) 2nd Reading Concurred		31	19
03/29/21	(S) Scheduled for 2nd Reading			
03/25/21	(C) Printed - New Version Available			
03/25/21	(S) Committee Report--Bill Concurred as Amended	(S) Public Health, Welfare and Safety		
03/24/21	(S) Committee Executive Action--Bill Concurred as Amended	(S) Public Health, Welfare and Safety	9	0
03/23/21	(C) Amendments Available			
03/19/21	(S) Hearing	(S) Public Health, Welfare and Safety		
03/08/21	(S) Referred to Committee	(S) Public Health, Welfare and Safety		
03/01/21	(S) First Reading			
02/27/21	(H) Transmitted to Senate			
02/27/21	(H) 3rd Reading Passed		71	28
02/27/21	(H) Scheduled for 3rd Reading			
02/26/21	(H) 2nd Reading Passed		71	29
02/26/21	(H) Scheduled for 2nd Reading			
02/24/21	(H) Committee Report--Bill Passed	(H) Judiciary		
02/24/21	(H) Fiscal Note Printed			
02/24/21	(H) Fiscal Note Signed			
02/24/21	(H) Fiscal Note Received			

Date	Action	Committee	Yes Votes	No Votes
02/22/21	(H) Committee Executive Action--Bill Passed	(H) Judiciary	14	5
02/22/21	(H) Hearing	(H) Judiciary		
02/18/21	(H) First Reading			
02/18/21	(H) Referred to Committee	(H) Judiciary		
02/17/21	(H) Fiscal Note Requested			
02/17/21	(C) Introduced Bill Text Available Electronically			
02/17/21	(H) Introduced			
02/17/21	(C) Draft Delivered to Requester			
02/17/21	(C) Draft Ready for Delivery			
02/16/21	(C) Executive Director Final Review			
02/16/21	(C) Draft Ready for Delivery			
02/16/21	(C) Draft in Assembly			
02/16/21	(C) Executive Director Review			
02/16/21	(C) Bill Draft Text Available Electronically			
02/16/21	(C) Draft in Final Drafter Review			
02/13/21	(C) Draft in Input/Proofing			
02/12/21	(C) Draft to Drafter - Edit Review			
02/10/21	(C) Draft in Edit			
02/10/21	(C) Draft in Legal Review			
10/01/20	(C) Draft Request Received			

Showing 1 to 69 of 69 entries

Bill Explorer - HB 459: Provide for certification of CPS workers with direct contact with children

Fiscal

Date	Status
02/24/21	(H) Fiscal Note Printed
02/24/21	(H) Fiscal Note Signed
02/24/21	(H) Fiscal Note Received
02/17/21	(H) Fiscal Note Requested

Fiscal Documents
HB0459_1.pdf

Fiscal Rebuttals
No matching results found

Amendments

Amendment	Condensed Version
HB0459.001.002.pdf	No
HB0459.001.002_instructions.pdf	No
HB0459.002.003.pdf	No
HB0459.002.003_instructions.pdf	No
HB0459.002.004.pdf	No
HB0459.002.004_instructions.pdf	No
HB0459002SCH.hlc.pdf	No
HB0459003CWH15062.hlc.pdf	No
HB0459004CWH15062.hlc.pdf	No

Documents And Links

Previous Versions

HB0459_X.pdf
HB0459_3.pdf
HB0459_2.pdf
HB0459_1.pdf

Other

HB0459GovAmd.pdf

(11) (a) In the year preceding the year in which the legislature meets in regular session, an agency may not adopt a rule between October 1 through the end of the year.

(b) This subsection (11) does not apply to:

(i) an emergency rule adopted under 2-4-303; or

(ii) a rule adopted for implementation of a program or policy if the unavailability of information, guidance, or notice precluded adoption of the rule before October 1. A rule may only be exempted under this subsection (11)(b)(ii) if the notice required under 2-4-302(1)(a) provides a statement explaining why the unavailability of information, guidance, or notice precluded adoption of the rule before October 1."

Section 3. Applicability. (1) [Section 1] applies to rule proposals filed with the secretary of state on or after [the effective date of this act].

(2) [Section 2] applies to rule proposals published in the register as required by 2-4-302 on or after [the effective date of this act]. [Section 2] does not apply to rule proposals published in the register prior to [the effective date of this act], even if the rule is subject to a final adoption on or after [the effective date of this act].

Approved May 14, 2021

CHAPTER NO. 520

[HB 459]

AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR CERTIFICATION OF CHILD PROTECTION SPECIALISTS INVESTIGATING MATTERS OF SUSPECTED CHILD ABUSE, NEGLECT, OR ENDANGERMENT; PROVIDING IMPLEMENTATION INSTRUCTIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 41-3-102, 41-3-108, 41-3-201, 41-3-202, 41-3-205, 41-3-301, 41-3-427, AND 41-3-445, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Certification required for use of title -- exceptions. (1) On certification in accordance with [sections 1 through 4], a person may use the title "certified child protection specialist".

(2) Subsection (1) does not prohibit a qualified member of another profession, such as a law enforcement officer, lawyer, psychologist, pastoral counselor, probation officer, court employee, nurse, school counselor, educator, baccalaureate, master's, or clinical social worker licensed pursuant to Title 37, chapter 22, clinical professional counselor licensed pursuant to Title 37, chapter 23, addiction counselor licensed pursuant to Title 37, chapter 35, or marriage and family therapist licensed pursuant to Title 37, chapter 37, from performing duties and services consistent with the person's licensure or certification and the code of ethics of the person's profession.

(3) Subsection (1) does not prohibit a qualified member of another profession, business, educational program, or volunteer organization who is not licensed or certified or for whom there is no applicable code of ethics, including a guardian ad litem, child advocate, or law enforcement officer, from performing duties and services consistent with the person's training, as long as the person does not represent by title that the person is a certified child protection specialist.

Section 2. Certificate requirements -- supervision -- fees. (1) An applicant for certification as a child protection specialist shall:

(a) successfully complete a course in child protection, as defined by the department by rule, which must include training in:

(i) ethics;

(ii) governing statutory and regulatory framework;

(iii) role of law enforcement;

(iv) crisis intervention techniques;

(v) childhood trauma research;

(vi) evidence-based practices for family preservation and strengthening; and

(vii) the provisions of the Indian Child Welfare Act, 25 U.S.C. 1902, et seq.; and

(b) demonstrate the applicant's ability to perform all essential functions of the certified child protection role by earning a passing score on a competency examination developed pursuant to [section 4].

(2) As a prerequisite to the issuance of a certificate, the department shall require the applicant to submit fingerprints for the purpose of fingerprint background checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(3) An applicant who has a history of criminal convictions has the opportunity to demonstrate to the department that the applicant is sufficiently rehabilitated to warrant the public trust. The department may deny the certificate if it determines that the applicant is not sufficiently rehabilitated.

Section 3. Certificate renewal -- continuing education. (1) A certified child protection specialist shall renew the specialist's certification annually using a process specified by department rule, which must include proof of completion of at least 20 hours of continuing education developed or approved by the department.

(2) The continuing education may include any topic listed in subsection (1) of [section 2] and must include at least one unit focused on:

(a) ethics; and

(b) recent developments in governing law or rule.

Section 4. Implementation of certification requirement for child protection specialists. (1) (a) The department shall engage and collaborate with an external organization to develop a child welfare certification and training program, including a competency examination, that must be an ongoing component of the department's child welfare work.

(b) The program and examination must be reevaluated every 2 years to ensure that they:

(i) reflect current trends, research, and developments in the law; and

(ii) promote evidence-based or evidence-informed practices.

(2) A person hired by the department for a child-facing position after [the effective date of this act] shall become a certified child protection specialist pursuant to [sections 1 through 4] within 1 year of the date of hire.

(3) A person already employed by the department in a child-facing position before [the effective date of this act] shall obtain child protection specialist certification pursuant to [sections 1 through 4] by October 1, 2023.

(4) For the purpose of this section, "child-facing position" means an employee role under this chapter that involves regular interaction with minors, including but not limited to investigating reports of child abuse, neglect, or endangerment.

Section 5. Section 41-3-102, MCA, is amended to read:

"**41-3-102. Definitions.** As used in this chapter, the following definitions apply:

(1) (a) "Abandon", "abandoned", and "abandonment" mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) "A person responsible for a child's welfare" means:

(a) the child's parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child's welfare in a residential setting.

(3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) "Adequate health care" means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) "Best interests of the child" means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) "Child" or "youth" means any person under 18 years of age.

(7) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare;

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous

drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(C) any form of child sex trafficking or human trafficking.

(ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as "serious emotional or physical damage to the child" as used in 25 U.S.C. 1912(f).

(d) The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child.

(8) "Child protection specialist" means an employee of the department who investigates allegations of child abuse, neglect, and endangerment and has been certified pursuant to [section 1].

~~(8)~~*(9)* "Concurrent planning" means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

~~(9)~~*(10)* "Department" means the department of public health and human services provided for in 2-15-2201.

~~(10)~~*(11)* "Family group decisionmaking meeting" means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

~~(11)~~*(12)* "Indian child" means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

~~(12)~~*(13)* "Indian child's tribe" means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

~~(13)~~*(14)* "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child's parent.

~~(14)~~*(15)* "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group's status as Indians, including any Alaskan native village as defined in federal law.

~~(15)~~*(16)* "Limited emancipation" means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

~~(16)~~*(17)* "Parent" means a biological or adoptive parent or stepparent.

~~(17)~~*(18)* "Parent-child legal relationship" means the legal relationship that exists between a child and the child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

~~(18)~~*(19)* "Permanent placement" means reunification of the child with the child's parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

~~(19)~~*(20)* "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

~~(20)~~*(21)* "Physical neglect" means either failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.

~~(21)~~*(22)* (a) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or other person responsible for the child's welfare:

(i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;

(ii) commits or allows sexual abuse or exploitation of the child;

(iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child's welfare;

(iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;

(v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or

(vi) abandons the child.

(b) The term does not include a youth not receiving supervision solely because of parental inability to control the youth's behavior.

~~(22)~~*(23)* (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, voluntary protective services provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

~~(23)~~*(24)* (a) "Psychological abuse or neglect" means severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child's home.

(b) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

~~(24)~~*(25)* "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

~~(25)~~*(26)* "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

~~(26)~~*(27)* "Residential setting" means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

~~(27)~~*(28)* "Safety and risk assessment" means an evaluation by a ~~social worker~~ *child protection specialist* following an initial report of child abuse or neglect to assess the following:

(a) the existing threat or threats to the child's safety;

(b) the protective capabilities of the parent or guardian;

(c) any particular vulnerabilities of the child;

(d) any interventions required to protect the child; and

(e) the likelihood of future physical or psychological harm to the child.

~~(28)~~*(29)* (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child's welfare.

~~(29)~~*(30)* "Sexual exploitation" means:

(a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601 through 45-5-603;

(b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or

(c) allowing, permitting, or encouraging sexual servitude as described in 45-5-704 or 45-5-705.

~~(30) (a) "Social worker" means an employee of the department who, before the employee's field assignment, has been educated or trained in a program of social work or a related field that includes cognitive and family systems treatment or who has equivalent verified experience or verified training in the investigation of child abuse, neglect, and endangerment.~~

~~(b) This definition does not apply to any provision of this code that is not in this chapter.~~

(31) "Treatment plan" means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan

may involve court services, the department, and other parties, if necessary, for protective services.

(32) (a) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (32), "infant" means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(33) "Youth in need of care" means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned."

Section 6. Section 41-3-108, MCA, is amended to read:

"**41-3-108. Child protective teams.** The county attorney, county commissioners, guardian ad litem, or department may convene one or more temporary or permanent interdisciplinary child protective teams. These teams may assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to the child and the child's family. The supervisor of child protective services in a local service area or the supervisor's designee shall serve as the team's coordinator. Members must include:

(1) a ~~social worker~~ *child protection specialist*;

(2) a member of a local law enforcement agency;

(3) a representative of the medical profession;

(4) a representative of a public school system;

(5) a county attorney; and

(6) if an Indian child or children are involved, someone, preferably an Indian person, knowledgeable about Indian culture and family matters."

Section 7. Section 41-3-201, MCA, is amended to read:

"**41-3-201. Reports.** (1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:

(a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;

(c) religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a social worker *licensed pursuant to Title 37, child protection specialist,* operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;

(f) a foster care, residential, or institutional worker;

(g) a peace officer or other law enforcement official;

(h) a member of the clergy, as defined in 15-6-201(2)(b);

(i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect;

(j) an employee of an entity that contracts with the department to provide direct services to children; and

(k) an employee of the department while in conduct of the employee's duties.

(3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.

(4) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.

(5) (a) When a professional or official required to report under subsection (2) makes a report, the department may share information with:

(i) that professional or official;

(ii) other individuals with whom the professional or official works in an official capacity if the individuals are part of a team that responds to matters involving the child or the person about whom the report was made and the professional or official has asked that the information be shared with the individuals; or

(iii) the child abuse and neglect review commission established in 2-15-2019.

(b) The department may provide information in accordance with 41-3-202(8) and also share information about the investigation, limited to its outcome and any subsequent action that will be taken on behalf of the child who is the subject of the report.

(c) Individuals who receive information pursuant to this subsection (5) shall maintain the confidentiality of the information as required by 41-3-205.

(6) (a) Except as provided in subsection (6)(b) or (6)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

(b) A member of the clergy or a priest is not required to make a report under this section if:

(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;

(ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and

(iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.

(c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

(7) The reports referred to under this section must contain:

(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;

(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible for the injury or neglect; and

(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter. (Subsection (5)(a)(iii) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 8. Section 41-3-202, MCA, is amended to read:

"**41-3-202. Action on reporting.** (1) (a) Upon receipt of a report that a child is or has been abused or neglected, the department shall promptly assess the information contained in the report and make a determination regarding the level of response required and the timeframe within which action must be initiated.

(b) (i) Except as provided in subsection (1)(b)(ii), upon receipt of a report that includes an allegation of sexual abuse or sexual exploitation or if the department determines during any investigation that the circumstances surrounding an allegation of child abuse or neglect include an allegation of sexual abuse or sexual exploitation, the department shall immediately report the allegation to the county attorney of the county in which the acts that are the subject of the report occurred.

(ii) If a victim of sexual abuse or sexual exploitation has attained the age of 14 and has sought services from a contractor as described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault, conditioned upon an understanding that the criminal conduct will not be reported by the department to the county attorney in the jurisdiction in which the alleged crime occurred, the department may not report pursuant to 41-3-205(5)(d) and subsection (1)(b)(i) of this section.

(c) If the department determines that an investigation and a safety and risk assessment are required, a ~~social worker~~ *child protection specialist* shall promptly conduct a thorough investigation into the circumstances surrounding the allegations of abuse or neglect of the child and perform a safety and risk assessment to determine whether the living arrangement presents an unsafe environment for the child. The safety and risk assessment may include an investigation at the home of the child involved, the child's school or day-care facility, or any other place where the child is present and into all other nonfinancial matters that in the discretion of the investigator are relevant to the safety and risk assessment. In conducting a safety and risk assessment under this section, a ~~social worker~~ *child protection specialist* may not inquire into the financial status of the child's family or of any other person responsible for the child's care, except as necessary to ascertain eligibility for state or federal assistance programs or to comply with the provisions of 41-3-446.

(2) An initial investigation of alleged abuse or neglect may be conducted when an anonymous report is received. However, if the initial investigation does

not within 48 hours result in the development of independent, corroborative, and attributable information indicating that there exists a current risk of physical or psychological harm to the child, a child may not be removed from the living arrangement. If independent, corroborative, and attributable information indicating an ongoing risk results from the initial investigation, the department shall then conduct a safety and risk assessment.

(3) The ~~social worker~~ *child protection specialist* is responsible for conducting the safety and risk assessment. If the child is treated at a medical facility, the ~~social worker~~ *child protection specialist*, county attorney, or peace officer, consistent with reasonable medical practice, has the right of access to the child for interviews, photographs, and securing physical evidence and has the right of access to relevant hospital and medical records pertaining to the child. If an interview of the child is considered necessary, the ~~social worker~~ *child protection specialist*, county attorney, or peace officer may conduct an interview of the child. The interview may be conducted in the presence of the parent or guardian or an employee of the school or day-care facility attended by the child.

(4) Subject to 41-3-205(3), if the child's interview is audiotaped or videotaped, an unedited audiotape or videotape with audio track must be made available, upon request, for unencumbered review by the family.

(5) (a) If from the safety and risk assessment the department has reasonable cause to suspect that the child is suffering abuse or neglect, the department may provide emergency protective services to the child, pursuant to 41-3-301, or voluntary protective services pursuant to 41-3-302, and may provide protective services to any other child under the same care. The department shall:

(i) after interviewing the parent or guardian, if reasonably available, document the determinations of the safety and risk assessment; and

(ii) notify the child's family of the determinations of the safety and risk assessment, unless the notification can reasonably be expected to result in harm to the child or other person.

(b) Except as provided in subsection (5)(c), the department shall destroy all safety and risk assessment determinations and associated records, except for medical records, within 30 days after the end of the 3-year period starting from the date of completion of the safety and risk assessment.

(c) Safety and risk assessment determinations and associated records may be maintained for a reasonable time as defined by department rule under the following circumstances:

(i) the safety and risk assessment determines that abuse or neglect occurred;

(ii) there had been a previous or there is a subsequent report and investigation resulting in a safety and risk assessment concerning the same person; or

(iii) an order has been issued by a court of competent jurisdiction adjudicating the child as a youth in need of care based on the circumstances surrounding the initial allegations.

(6) The investigating ~~social worker~~ *child protection specialist*, within 60 days of commencing an investigation, shall also furnish a written safety and risk assessment to the department and, upon request, to the family. Subject to time periods set forth in subsections (5)(b) and (5)(c), the department shall maintain a record system documenting investigations and safety and risk assessment determinations. Unless records are required to be destroyed under subsections (5)(b) and (5)(c), the department shall retain records relating to the

safety and risk assessment, including case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

(7) Any person reporting abuse or neglect that involves acts or omissions on the part of a public or private residential institution, home, facility, or agency is responsible for ensuring that the report is made to the department.

(8) The department shall, upon request from any reporter of alleged child abuse or neglect, verify whether the report has been received, describe the level of response and timeframe for action that the department has assigned to the report, and confirm that it is being acted upon."

Section 9. Section 41-3-205, MCA, is amended to read:

"**41-3-205. Confidentiality -- disclosure exceptions.** (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only

and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department[, including the child abuse and neglect review commission established in 2-15-2019];

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

(p) the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a ~~social worker~~ *child protection specialist*, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county or regional interdisciplinary child information and school safety team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) (a) The records described in subsection (3) must be disclosed to a member of the United States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United States or the state of Montana that protect children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the department in locating the records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records.

(b) Records disclosed pursuant to subsection (4)(a) are confidential, must be made available for the member to view but may not be copied, recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's possession. The member must be allowed to view the records in the local office where the case is or was active.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

(i) the attorney general;

(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;

(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or

(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502; or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a) and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or guardian's attorney must be provided without cost. (Bracketed language in subsection (3)(m) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 10. Section 41-3-301, MCA, is amended to read:

"**41-3-301. Emergency protective service.** (1) Any child ~~protective social worker~~ *protection specialist* of the department, a peace officer, or the county attorney who has reason to believe any child is in immediate or apparent danger of harm may immediately remove the child and place the child in a protective facility. After ensuring that the child is safe, the department may make a request for further assistance from the law enforcement agency or take appropriate legal action. The person or agency placing the child shall notify the parents, parent, guardian, or other person having physical or legal custody of the child of the placement at the time the placement is made or as soon after placement as possible. Notification under this subsection must include the reason for removal, information regarding the show cause hearing, and the purpose of the show cause hearing and must advise the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person may have a support person present during any in-person meeting with the ~~social worker~~ *child protection specialist* concerning emergency protective services.

(2) If a ~~social worker of the department~~ *child protection specialist*, a peace officer, or the county attorney determines in an investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or family member assault, as provided for in 45-5-206, or strangulation of a partner or family member, as provided for in 45-5-215, against an adult member of the household or that the child needs protection as a result of the occurrence of partner or family member assault or strangulation of a partner or family member against an adult member of the household, the department shall take appropriate steps for the protection of the child, which may include:

(a) making reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is a victim of alleged partner or family member assault or strangulation of a partner or family member;

(b) making reasonable efforts to remove the person who allegedly committed the partner or family member assault or strangulation of a partner or family member from the child's residence if it is determined that the child or another family or household member is in danger of partner or family member assault or strangulation of a partner or family member; and

(c) providing services to help protect the child from being placed with or having unsupervised visitation with the person alleged to have committed partner or family member assault or strangulation of a partner or family member until the department determines that the alleged offender has met conditions considered necessary to protect the safety of the child.

(3) If the department determines that an adult member of the household is the victim of partner or family member assault or strangulation of a partner or family member, the department shall provide the adult victim with a referral to a domestic violence program.

(4) A child who has been removed from the child's home or any other place for the child's protection or care may not be placed in a jail.

(5) The department may locate and contact extended family members upon placement of a child in out-of-home care. The department may share information with extended family members for placement and case planning purposes.

(6) If a child is removed from the child's home by the department, a child ~~protective social worker~~ *protection specialist* shall submit an affidavit regarding the circumstances of the emergency removal to the county attorney and provide a copy of the affidavit to the parents or guardian, if possible, within 2 working days of the emergency removal. An abuse and neglect petition must be filed within 5 working days, excluding weekends and holidays, of the emergency removal of a child unless arrangements acceptable to the agency for the care of the child have been made by the parents or voluntary protective services are provided pursuant to 41-3-302.

(7) Except as provided in the federal Indian Child Welfare Act, if applicable, a show cause hearing must be held within 20 days of the filing of the petition unless otherwise stipulated by the parties pursuant to 41-3-434.

(8) If the department determines that a petition for immediate protection and emergency protective services must be filed to protect the safety of the child, the ~~social worker~~ *child protection specialist* shall interview the parents of the child to whom the petition pertains, if the parents are reasonably available, before the petition may be filed. The district court may immediately issue an order for immediate protection of the child.

(9) The department shall make the necessary arrangements for the child's well-being as are required prior to the court hearing."

Section 11. Section 41-3-427, MCA, is amended to read:

"**41-3-427. Petition for immediate protection and emergency protective services -- order -- service.** (1) (a) In a case in which it appears that a child is abused or neglected or is in danger of being abused or neglected, the county attorney, the attorney general, or an attorney hired by the county may file a petition for immediate protection and emergency protective services. In implementing the policy of this section, the child's health and safety are of paramount concern.

(b) A petition for immediate protection and emergency protective services must state the specific authority requested and must be supported by an affidavit signed by a representative of the department stating in detail the alleged facts upon which the request is based and the facts establishing probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence that a child is abused or neglected or is in danger of being abused or neglected. The affidavit of the department representative must contain information, if any, regarding statements made by the parents about the facts of the case.

(c) If from the alleged facts presented in the affidavit it appears to the court that there is probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence to believe that the child has been abused or neglected or is in danger of being abused and neglected, the judge shall grant emergency protective services and the relief authorized by subsection (2) until the adjudication hearing or the temporary investigative hearing. If it appears from the alleged facts contained in the affidavit that there is insufficient probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence to believe that the child has been abused or neglected or is in danger of being abused or neglected, the court shall dismiss the petition.

(d) If the parents, parent, guardian, person having physical or legal custody of the child, or attorney for the child disputes the material issues of

fact contained in the affidavit or the veracity of the affidavit, the person may request a contested show cause hearing pursuant to 41-3-432 within 10 days following service of the petition and affidavit.

(e) The petition for immediate protection and emergency protective services must include a notice advising the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person having physical or legal custody of the child may have a support person present during any in-person meeting with a ~~social worker~~ *child protection specialist* concerning emergency protective services. Reasonable accommodation must be made in scheduling an in-person meeting with the ~~social worker~~ *child protection specialist*.

(2) Pursuant to subsection (1), if the court finds probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence based on the petition and affidavit, the court may issue an order for immediate protection of the child. The court shall consider the parents' statements, if any, included with the petition and any accompanying affidavit or report to the court. If the court finds probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence, the court may issue an order granting the following forms of relief, which do not constitute a court-ordered treatment plan under 41-3-443:

(a) the right of entry by a peace officer or department worker;

(b) the right to place the child in temporary medical or out-of-home care, including but not limited to care provided by a noncustodial parent, kinship or foster family, group home, or institution;

(c) the right of the department to locate, contact, and share information with any extended family members who may be considered as placement options for the child;

(d) a requirement that the parents, guardian, or other person having physical or legal custody furnish information that the court may designate and obtain evaluations that may be necessary to determine whether a child is a youth in need of care;

(e) a requirement that the perpetrator of the alleged child abuse or neglect be removed from the home to allow the child to remain in the home;

(f) a requirement that the parent provide the department with the name and address of the other parent, if known, unless parental rights to the child have been terminated;

(g) a requirement that the parent provide the department with the names and addresses of extended family members who may be considered as placement options for the child who is the subject of the proceeding; and

(h) any other temporary disposition that may be required in the best interests of the child that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditure is reasonable and that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

(3) An order for removal of a child from the home must include a finding that continued residence of the child with the parent is contrary to the welfare of the child or that an out-of-home placement is in the best interests of the child.

(4) The order for immediate protection of the child must require the person served to comply immediately with the terms of the order and to appear before the court issuing the order on the date specified for a show cause hearing. Upon a failure to comply or show cause, the court may hold the person in contempt

or place temporary physical custody of the child with the department until further order.

(5) The petition must be served as provided in 41-3-422."

Section 12. Section 41-3-445, MCA, is amended to read:

"**41-3-445. Permanency hearing.** (1) (a) (i) Subject to subsection (1)(b), a permanency hearing must be held by the court or, subject to the approval of the court and absent an objection by a party to the proceeding, by the foster care review committee, as provided in 41-3-115, or the citizen review board, as provided in 41-3-1010:

(A) within 30 days of a determination that reasonable efforts to provide preservation or reunification services are not necessary under 41-3-423, 41-3-438(6), or 41-3-442(1); or

(B) no later than 12 months after the initial court finding that the child has been subjected to abuse or neglect or 12 months after the child's first 60 days of removal from the home, whichever comes first.

(ii) Within 12 months of a hearing under subsection (1)(a)(i)(B) and every 12 months thereafter until the child is permanently placed in either an adoptive or a guardianship placement, the court or the court-approved entity holding the permanency hearing shall conduct a hearing and the court shall issue a finding as to whether the department has made reasonable efforts to finalize the permanency plan for the child.

(b) A permanency hearing is not required if the proceeding has been dismissed, the child was not removed from the home, the child has been returned to the child's parent or guardian, or the child has been legally adopted or appointed a legal guardian.

(c) The permanency hearing may be combined with a hearing that is required in other sections of this part or with a review held pursuant to 41-3-115 or 41-3-1010 if held within the applicable time limits. If a permanency hearing is combined with another hearing or a review, the requirements of the court related to the disposition of the other hearing or review must be met in addition to the requirements of this section.

(d) The court-approved entity conducting the permanency hearing may elect to hold joint or separate reviews for groups of siblings, but the court shall issue specific findings for each child.

(2) At least 3 working days prior to the permanency hearing, the department shall submit a report regarding the child to the entity that will be conducting the hearing for review. The report must address the department's efforts to effectuate the permanency plan for the child, address the options for the child's permanent placement, examine the reasons for excluding higher priority options, and set forth the proposed plan to carry out the placement decision, including specific times for achieving the plan.

(3) At least 3 working days prior to the permanency hearing, the guardian ad litem or an attorney or advocate for a parent or guardian may submit an informational report to the entity that will be conducting the hearing for review.

(4) In a permanency hearing, the court or other entity conducting the hearing shall consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.

(5) (a) The court's order must be issued within 20 days after the permanency hearing if the hearing was conducted by the court. If a member of the child's extended family, including an adult sibling, grandparent, great-grandparent, aunt, or uncle, has requested that custody be awarded to that family member or that a prior grant of temporary custody with that family member be made permanent, the department shall investigate and

determine if awarding custody to that family member is in the best interests of the child. The department shall provide the reasons for any denial to the court. If the court accepts the department's custody recommendation, the court shall inform any denied family member of the reasons for the denial to the extent that confidentiality laws allow. The court shall include the reasons for denial in the court order if the family member who is denied custody requests it to be included.

(b) If an entity other than the court conducts the hearing, the entity shall keep minutes of the hearing and the minutes and written recommendations must be provided to the court within 20 days of the hearing.

(c) If an entity other than the court conducts the hearing and the court concurs with the recommendations, the court may adopt the recommendations as findings with no additional hearing required. In this case, the court shall issue written findings within 10 days of receipt of the written recommendations.

(6) The court shall approve a specific permanency plan for the child and make written findings on:

(a) whether the child has been asked about the desired permanency outcome;

(b) whether the permanency plan is in the best interests of the child;

(c) whether the department has made reasonable efforts to effectuate the permanency plan for the individual child;

(d) whether the department has made reasonable efforts to finalize the plan;

(e) whether there are compelling reasons why it is not in the best interest of the individual child to:

(i) return to the child's home; or

(ii) be placed for adoption, with a legal guardian, or with a fit and willing relative; and

(f) other necessary steps that the department is required to take to effectuate the terms of the plan.

(7) In its discretion, the court may enter any other order that it determines to be in the best interests of the child that does not conflict with the options provided in subsection (8) and that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditures are reasonable and that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

(8) Permanency options include:

(a) reunification of the child with the child's parent or guardian;

(b) permanent placement of the child with the noncustodial parent, superseding any existing custodial order;

(c) adoption;

(d) appointment of a guardian pursuant to 41-3-444; or

(e) long-term custody if the child is in a planned permanent living arrangement and if it is established by a preponderance of the evidence, which is reflected in specific findings by the court, that:

(i) the child is being cared for by a fit and willing relative;

(ii) the child has an emotional or mental handicap that is so severe that the child cannot function in a family setting and the best interests of the child are served by placement in a residential or group setting;

(iii) the child is at least 16 years of age and is participating in an independent living program and that termination of parental rights is not in the best interests of the child;

(iv) the child's parent is incarcerated and circumstances, including placement of the child and continued, frequent contact with the parent, indicate that it would not be in the best interests of the child to terminate parental rights of that parent; or

(v) the child meets the following criteria:

(A) the child has been adjudicated a youth in need of care;

(B) the department has made reasonable efforts to reunite the parent and child, further efforts by the department would likely be unproductive, and reunification of the child with the parent or guardian would be contrary to the best interests of the child;

(C) there is a judicial finding that other more permanent placement options for the child have been considered and found to be inappropriate or not to be in the best interests of the child; and

(D) the child has been in a placement in which the foster parent or relative has committed to the long-term care and to a relationship with the child, and it is in the best interests of the child to remain in that placement.

(9) For a child 14 years of age or older, the permanency plan must:

(a) be developed in consultation with the child and in consultation with up to two members of the child's case planning team who are chosen by the child and who are not a foster parent or ~~social worker~~ *child protection specialist* for the child;

(b) identify one person from the case management team, who is selected by the child, to be designated as the child's advisor and advocate for the application of the reasonable and prudent parenting standard; and

(c) include services that will be needed to transition the child from foster care to adulthood.

(10) A permanency hearing must document the intensive, ongoing, and unsuccessful efforts made by the department to return the child to the child's home or to secure a permanent placement of the child with a relative, legal guardian, or adoptive parent.

(11) The court may terminate a planned permanent living arrangement upon petition of the birth parents or the department if the court finds that the circumstances of the child or family have substantially changed and the best interests of the child are no longer being served."

Section 13. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 41, chapter 3, part 1, and the provisions of Title 41, chapter 3, part 1, apply to [sections 1 through 4].

Approved May 14, 2021

CHAPTER NO. 521

[HB 472]

AN ACT REVISING CIVIL LIABILITY UNDER THE CONSUMER PROTECTION ACT; LIMITING TREBLE DAMAGES; LIMITING AWARDS OF ATTORNEY FEES; AND AMENDING SECTION 30-14-133, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 30-14-133, MCA, is amended to read:

"**30-14-133. Damages -- notice to public agencies -- attorney fees -- prior judgment as evidence.** (1) A consumer who suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act, or practice declared unlawful by 30-14-103 may bring an individual *action* but not a class action under the rules of civil

HOUSE BILL NO. 459

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR CERTIFICATION OF CHILD PROTECTION SPECIALISTS INVESTIGATING MATTERS OF SUSPECTED CHILD ABUSE, NEGLECT, OR ENDANGERMENT; PROVIDING IMPLEMENTATION INSTRUCTIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 37-22-201, 41-3-102, 41-3-108, 41-3-201, 41-3-202, 41-3-205, 41-3-301, 41-3-427, AND 41-3-445, MCA.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Child protection specialist.** The profession of child protection specialist is subject to certification requirements set forth in [sections 1 through 5] and by rules promulgated by the board of behavioral health.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of behavioral health established under 2-15-1744.

(2) "Certified child protection specialist" means a person who:

(a) has obtained the education and skills needed to investigate, respond to, prevent, and resolve reports of abuse, neglect, and endangerment experienced by children; and

(b) possesses a valid and current certification.

NEW SECTION. **Section 3. Certification required for use of title -- exceptions.** (1) On certification in accordance with [sections 1 through 5], a person may use the title "certified child protection specialist".

(2) Subsection (1) does not prohibit a qualified member of another profession, such as a law enforcement officer, lawyer, psychologist, pastoral counselor, probation officer, court employee, nurse, school counselor, educator, baccalaureate, master's, or clinical social worker licensed pursuant to Title 37, chapter 22,

clinical professional counselor licensed pursuant to Title 37, chapter 23, addiction counselor licensed pursuant to Title 37, chapter 35, or marriage and family therapist licensed pursuant to Title 37, chapter 37, from performing duties and services consistent with the person's licensure or certification and the code of ethics of the person's profession.

(3) Subsection (1) does not prohibit a qualified member of another profession, business, educational program, or volunteer organization who is not licensed or certified or for whom there is no applicable code of ethics, including a guardian ad litem, child advocate, or law enforcement officer, from performing duties and services consistent with the person's training, as long as the person does not represent by title that the person is a certified child protection specialist.

NEW SECTION. **Section 4. Certificate requirements -- supervision -- fees.** (1) An applicant for certification as a child protection specialist shall submit a written application on a form provided by the board and an application fee prescribed by the board. A certification must be renewed as provided in [section 5].

(2) An applicant must have:

(a) successfully completed a course in child protection, as defined by the board by rule, which must include training in:

(i) ethics;

(ii) governing statutory and regulatory framework;

(iii) role of law enforcement;

(iv) crisis intervention techniques;

(v) childhood trauma research; and

(vi) evidence-based practices for family preservation and strengthening; and

(b) demonstrated the applicant's ability to perform all essential functions of the certified child protection role by earning a passing score on a competency examination as provided for by the board.

(3) As a prerequisite to the issuance of a certificate, the board shall require the applicant to submit fingerprints for the purpose of fingerprint background checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(4) Pursuant to 37-1-203, an applicant who has a history of criminal convictions has the opportunity to

demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust. The board may deny the license if it determines that the applicant is not sufficiently rehabilitated.

NEW SECTION. **Section 5. Certificate renewal -- continuing education.** A certified child protection specialist shall renew the specialist's certification annually using a process specified by board rule, which must include:

(1) payment of a fee prescribed by the board; and

(2) proof of completion of at least 20 hours of continuing education developed or approved by the department, which may include any topic listed in subsection (2) of [section 4] and must include at least one unit focused on:

(a) ethics; and

(b) recent developments in governing law or rule.

NEW SECTION. **Section 6. Implementation of certification requirement for child protection specialists.** (1) A person hired by the department for a child-facing position after [the effective date of this act] shall become a certified child protection specialist pursuant to [sections 1 through 5] before beginning work that involves interaction with minors.

(2) A person already employed by the department in a child-facing position before [the effective date of this act] shall obtain child protection specialist certification pursuant to [sections 1 through 5] by October 1, 2023.

(3) For the purpose of this section, "child-facing position" means an employee role under this chapter that involves regular interaction with minors, including but not limited to investigating reports of child abuse, neglect, or endangerment.

Section 7. Section 37-22-201, MCA, is amended to read:

"**37-22-201. Duties of board.** The board:

(1) shall recommend prosecutions for violations of 37-22-411, 37-23-311, Title 37, chapter 35, ~~and~~ Title 37, chapter 37, and [sections 1 through 5], to the attorney general or the appropriate county attorney, or

both;

(2) shall meet at least once every 3 months to perform the duties described in Title 37, chapters 1, 23, 35, and 37, [sections 1 through 5], and this chapter. The board may, once a year by a consensus of board members, determine that there is no necessity for a board meeting.

(3) shall adopt rules that set professional, practice, and ethical standards for social workers, marriage and family therapists, addiction counselors, child protection specialists, and professional counselors and other rules as may be reasonably necessary for the administration of chapters 23, 35, and 37, [sections 1 through 5], and this chapter; and

(4) may adopt rules governing the issuance of licenses of special competence in particular areas of practice as a licensed professional counselor. The board shall establish criteria for each particular area for which a license is issued."

Section 8. Section 41-3-102, MCA, is amended to read:

"**41-3-102. Definitions.** As used in this chapter, the following definitions apply:

(1) (a) "Abandon", "abandoned", and "abandonment" mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) "A person responsible for a child's welfare" means:

(a) the child's parent, guardian, or foster parent or an adult who resides in the same home in which

the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child's welfare in a residential setting.

(3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) "Adequate health care" means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) "Best interests of the child" means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) "Child" or "youth" means any person under 18 years of age.

(7) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare;

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(C) any form of child sex trafficking or human trafficking.

(ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as "serious emotional or physical damage to the child" as used in 25 U.S.C. 1912(f).

(d) The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child.

(8) "Child protection specialist" means an employee of the department who investigates allegations of child abuse, neglect, and endangerment and has been certified pursuant to [section 3].

~~(8)~~(9) "Concurrent planning" means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

~~(9)~~(10) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(10)~~(11) "Family group decisionmaking meeting" means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

~~(11)~~(12) "Indian child" means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

~~(12)~~(13) "Indian child's tribe" means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

~~(13)~~(14) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child's parent.

~~(14)~~(15) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group's status as Indians, including any Alaskan native village as defined in federal law.

~~(15)~~(16) "Limited emancipation" means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

~~(16)~~(17) "Parent" means a biological or adoptive parent or stepparent.

~~(17)~~(18) "Parent-child legal relationship" means the legal relationship that exists between a child and the child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

~~(18)~~(19) "Permanent placement" means reunification of the child with the child's parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

~~(19)~~(20) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

~~(20)~~(21) "Physical neglect" means either failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.

~~(21)~~(22) (a) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or other person responsible for the child's welfare:

(i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;

(ii) commits or allows sexual abuse or exploitation of the child;

(iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child's welfare;

(iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;

(v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or

(vi) abandons the child.

(b) The term does not include a youth not receiving supervision solely because of parental inability to control the youth's behavior.

~~(22)~~(23) (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, voluntary protective services provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

~~(23)~~(24) (a) "Psychological abuse or neglect" means severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child's home.

(b) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

~~(24)~~(25) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within

the Indian child's tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

~~(25)~~(26) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

~~(26)~~(27) "Residential setting" means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

~~(27)~~(28) "Safety and risk assessment" means an evaluation by a ~~social worker~~ child protection specialist following an initial report of child abuse or neglect to assess the following:

(a) the existing threat or threats to the child's safety;

(b) the protective capabilities of the parent or guardian;

(c) any particular vulnerabilities of the child;

(d) any interventions required to protect the child; and

(e) the likelihood of future physical or psychological harm to the child.

~~(28)~~(29) (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child's welfare.

~~(29)~~(30) "Sexual exploitation" means:

(a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601 through 45-5-603;

(b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or

(c) allowing, permitting, or encouraging sexual servitude as described in 45-5-704 or 45-5-705.

~~(30) (a) "Social worker" means an employee of the department who, before the employee's field~~

~~assignment, has been educated or trained in a program of social work or a related field that includes cognitive and family systems treatment or who has equivalent verified experience or verified training in the investigation of child abuse, neglect, and endangerment.~~

~~(b) This definition does not apply to any provision of this code that is not in this chapter.~~

(31) "Treatment plan" means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(32) (a) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (32), "infant" means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(33) "Youth in need of care" means a youth who has been adjudicated or determined, after a hearing,

to be or to have been abused, neglected, or abandoned."

Section 9. Section 41-3-108, MCA, is amended to read:

"**41-3-108. Child protective teams.** The county attorney, county commissioners, guardian ad litem, or department may convene one or more temporary or permanent interdisciplinary child protective teams. These teams may assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to the child and the child's family. The supervisor of child protective services in a local service area or the supervisor's designee shall serve as the team's coordinator. Members must include:

(1) a ~~social worker~~ child protection specialist;

(2) a member of a local law enforcement agency;

(3) a representative of the medical profession;

(4) a representative of a public school system;

(5) a county attorney; and

(6) if an Indian child or children are involved, someone, preferably an Indian person, knowledgeable about Indian culture and family matters."

Section 10. Section 41-3-201, MCA, is amended to read:

"**41-3-201. Reports.** (1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:

(a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;

(c) religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a social worker licensed pursuant to Title 37, child protection specialist, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;

(f) a foster care, residential, or institutional worker;

(g) a peace officer or other law enforcement official;

(h) a member of the clergy, as defined in 15-6-201(2)(b);

(i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect;

(j) an employee of an entity that contracts with the department to provide direct services to children; and

(k) an employee of the department while in conduct of the employee's duties.

(3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.

(4) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.

(5) (a) When a professional or official required to report under subsection (2) makes a report, the department may share information with:

(i) that professional or official;

(ii) other individuals with whom the professional or official works in an official capacity if the individuals are part of a team that responds to matters involving the child or the person about whom the report was made and the professional or official has asked that the information be shared with the individuals; or

(iii) the child abuse and neglect review commission established in 2-15-2019.

(b) The department may provide information in accordance with 41-3-202(8) and also share information about the investigation, limited to its outcome and any subsequent action that will be taken on behalf of the child who is the subject of the report.

(c) Individuals who receive information pursuant to this subsection (5) shall maintain the confidentiality of the information as required by 41-3-205.

(6) (a) Except as provided in subsection (6)(b) or (6)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

(b) A member of the clergy or a priest is not required to make a report under this section if:

(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;

(ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and

(iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.

(c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

(7) The reports referred to under this section must contain:

(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;

(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible for the injury or neglect; and

(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter. (Subsection (5)(a)(iii) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 11. Section 41-3-202, MCA, is amended to read:

"**41-3-202. Action on reporting.** (1) (a) Upon receipt of a report that a child is or has been abused or neglected, the department shall promptly assess the information contained in the report and make a

determination regarding the level of response required and the timeframe within which action must be initiated.

(b) (i) Except as provided in subsection (1)(b)(ii), upon receipt of a report that includes an allegation of sexual abuse or sexual exploitation or if the department determines during any investigation that the circumstances surrounding an allegation of child abuse or neglect include an allegation of sexual abuse or sexual exploitation, the department shall immediately report the allegation to the county attorney of the county in which the acts that are the subject of the report occurred.

(ii) If a victim of sexual abuse or sexual exploitation has attained the age of 14 and has sought services from a contractor as described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault, conditioned upon an understanding that the criminal conduct will not be reported by the department to the county attorney in the jurisdiction in which the alleged crime occurred, the department may not report pursuant to 41-3-205(5)(d) and subsection (1)(b)(i) of this section.

(c) If the department determines that an investigation and a safety and risk assessment are required, a ~~social worker~~ child protection specialist shall promptly conduct a thorough investigation into the circumstances surrounding the allegations of abuse or neglect of the child and perform a safety and risk assessment to determine whether the living arrangement presents an unsafe environment for the child. The safety and risk assessment may include an investigation at the home of the child involved, the child's school or day-care facility, or any other place where the child is present and into all other nonfinancial matters that in the discretion of the investigator are relevant to the safety and risk assessment. In conducting a safety and risk assessment under this section, a ~~social worker~~ child protection specialist may not inquire into the financial status of the child's family or of any other person responsible for the child's care, except as necessary to ascertain eligibility for state or federal assistance programs or to comply with the provisions of 41-3-446.

(2) An initial investigation of alleged abuse or neglect may be conducted when an anonymous report is received. However, if the initial investigation does not within 48 hours result in the development of independent, corroborative, and attributable information indicating that there exists a current risk of physical or psychological harm to the child, a child may not be removed from the living arrangement. If independent, corroborative, and attributable information indicating an ongoing risk results from the initial investigation, the department shall then conduct a safety and risk assessment.

(3) The ~~social worker~~ child protection specialist is responsible for conducting the safety and risk

assessment. If the child is treated at a medical facility, the ~~social worker~~ child protection specialist, county attorney, or peace officer, consistent with reasonable medical practice, has the right of access to the child for interviews, photographs, and securing physical evidence and has the right of access to relevant hospital and medical records pertaining to the child. If an interview of the child is considered necessary, the ~~social worker~~ child protection specialist, county attorney, or peace officer may conduct an interview of the child. The interview may be conducted in the presence of the parent or guardian or an employee of the school or day-care facility attended by the child.

(4) Subject to 41-3-205(3), if the child's interview is audiotaped or videotaped, an unedited audiotape or videotape with audio track must be made available, upon request, for unencumbered review by the family.

(5) (a) If from the safety and risk assessment the department has reasonable cause to suspect that the child is suffering abuse or neglect, the department may provide emergency protective services to the child, pursuant to 41-3-301, or voluntary protective services pursuant to 41-3-302, and may provide protective services to any other child under the same care. The department shall:

(i) after interviewing the parent or guardian, if reasonably available, document the determinations of the safety and risk assessment; and

(ii) notify the child's family of the determinations of the safety and risk assessment, unless the notification can reasonably be expected to result in harm to the child or other person.

(b) Except as provided in subsection (5)(c), the department shall destroy all safety and risk assessment determinations and associated records, except for medical records, within 30 days after the end of the 3-year period starting from the date of completion of the safety and risk assessment.

(c) Safety and risk assessment determinations and associated records may be maintained for a reasonable time as defined by department rule under the following circumstances:

(i) the safety and risk assessment determines that abuse or neglect occurred;

(ii) there had been a previous or there is a subsequent report and investigation resulting in a safety and risk assessment concerning the same person; or

(iii) an order has been issued by a court of competent jurisdiction adjudicating the child as a youth in need of care based on the circumstances surrounding the initial allegations.

(6) The investigating ~~social worker~~ child protection specialist, within 60 days of commencing an

investigation, shall also furnish a written safety and risk assessment to the department and, upon request, to the family. Subject to time periods set forth in subsections (5)(b) and (5)(c), the department shall maintain a record system documenting investigations and safety and risk assessment determinations. Unless records are required to be destroyed under subsections (5)(b) and (5)(c), the department shall retain records relating to the safety and risk assessment, including case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

(7) Any person reporting abuse or neglect that involves acts or omissions on the part of a public or private residential institution, home, facility, or agency is responsible for ensuring that the report is made to the department.

(8) The department shall, upon request from any reporter of alleged child abuse or neglect, verify whether the report has been received, describe the level of response and timeframe for action that the department has assigned to the report, and confirm that it is being acted upon."

Section 12. Section 41-3-205, MCA, is amended to read:

"**41-3-205. Confidentiality -- disclosure exceptions.** (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal

organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department[, including the child abuse and neglect review commission established in 2-15-2019];

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

(p) the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a ~~social worker~~ child protection specialist, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county or regional interdisciplinary child information and school safety team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) (a) The records described in subsection (3) must be disclosed to a member of the United States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United States or the state of Montana that protect children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the department in locating the records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records.

(b) Records disclosed pursuant to subsection (4)(a) are confidential, must be made available for the member to view but may not be copied, recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's possession. The member must be allowed to view the records in the local office where the case is or was active.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

(i) the attorney general;

(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;

(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or

(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502; or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault shall report to the department as provided in this part without

disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a) and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or guardian's attorney must be provided without cost. (Bracketed language in subsection (3)(m) terminates

September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 13. Section 41-3-301, MCA, is amended to read:

"**41-3-301. Emergency protective service.** (1) Any child ~~protective social worker~~ protection specialist of the department, a peace officer, or the county attorney who has reason to believe any child is in immediate or apparent danger of harm may immediately remove the child and place the child in a protective facility. After ensuring that the child is safe, the department may make a request for further assistance from the law enforcement agency or take appropriate legal action. The person or agency placing the child shall notify the parents, parent, guardian, or other person having physical or legal custody of the child of the placement at the time the placement is made or as soon after placement as possible. Notification under this subsection must include the reason for removal, information regarding the show cause hearing, and the purpose of the show cause hearing and must advise the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person may have a support person present during any in-person meeting with the ~~social worker~~ child protection specialist concerning emergency protective services.

(2) If a ~~social worker of the department~~ child protection specialist, a peace officer, or the county attorney determines in an investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or family member assault, as provided for in 45-5-206, or strangulation of a partner or family member, as provided for in 45-5-215, against an adult member of the household or that the child needs protection as a result of the occurrence of partner or family member assault or strangulation of a partner or family member against an adult member of the household, the department shall take appropriate steps for the protection of the child, which may include:

(a) making reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is a victim of alleged partner or family member assault or strangulation of a partner or family member;

(b) making reasonable efforts to remove the person who allegedly committed the partner or family member assault or strangulation of a partner or family member from the child's residence if it is determined that the child or another family or household member is in danger of partner or family member assault or strangulation of a partner or family member; and

(c) providing services to help protect the child from being placed with or having unsupervised visitation with the person alleged to have committed partner or family member assault or strangulation of a partner or family member until the department determines that the alleged offender has met conditions considered necessary to protect the safety of the child.

(3) If the department determines that an adult member of the household is the victim of partner or family member assault or strangulation of a partner or family member, the department shall provide the adult victim with a referral to a domestic violence program.

(4) A child who has been removed from the child's home or any other place for the child's protection or care may not be placed in a jail.

(5) The department may locate and contact extended family members upon placement of a child in out-of-home care. The department may share information with extended family members for placement and case planning purposes.

(6) If a child is removed from the child's home by the department, a child ~~protective social worker~~ protection specialist shall submit an affidavit regarding the circumstances of the emergency removal to the county attorney and provide a copy of the affidavit to the parents or guardian, if possible, within 2 working days of the emergency removal. An abuse and neglect petition must be filed within 5 working days, excluding weekends and holidays, of the emergency removal of a child unless arrangements acceptable to the agency for the care of the child have been made by the parents or voluntary protective services are provided pursuant to 41-3-302.

(7) Except as provided in the federal Indian Child Welfare Act, if applicable, a show cause hearing must be held within 20 days of the filing of the petition unless otherwise stipulated by the parties pursuant to 41-3-434.

(8) If the department determines that a petition for immediate protection and emergency protective services must be filed to protect the safety of the child, the ~~social worker~~ child protection specialist shall interview the parents of the child to whom the petition pertains, if the parents are reasonably available, before the petition may be filed. The district court may immediately issue an order for immediate protection of the child.

(9) The department shall make the necessary arrangements for the child's well-being as are required prior to the court hearing."

Section 14. Section 41-3-427, MCA, is amended to read:

"**41-3-427. Petition for immediate protection and emergency protective services -- order -- service.** (1) (a) In a case in which it appears that a child is abused or neglected or is in danger of being abused or neglected, the county attorney, the attorney general, or an attorney hired by the county may file a petition for immediate protection and emergency protective services. In implementing the policy of this section, the child's health and safety are of paramount concern.

(b) A petition for immediate protection and emergency protective services must state the specific authority requested and must be supported by an affidavit signed by a representative of the department stating in detail the alleged facts upon which the request is based and the facts establishing probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence that a child is abused or neglected or is in danger of being abused or neglected. The affidavit of the department representative must contain information, if any, regarding statements made by the parents about the facts of the case.

(c) If from the alleged facts presented in the affidavit it appears to the court that there is probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence to believe that the child has been abused or neglected or is in danger of being abused and neglected, the judge shall grant emergency protective services and the relief authorized by subsection (2) until the adjudication hearing or the temporary investigative hearing. If it appears from the alleged facts contained in the affidavit that there is insufficient probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence to believe that the child has been abused or neglected or is in danger of being abused or neglected, the court shall dismiss the petition.

(d) If the parents, parent, guardian, person having physical or legal custody of the child, or attorney for the child disputes the material issues of fact contained in the affidavit or the veracity of the affidavit, the person may request a contested show cause hearing pursuant to 41-3-432 within 10 days following service of the petition and affidavit.

(e) The petition for immediate protection and emergency protective services must include a notice advising the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person having physical or legal custody of the child may have a support

person present during any in-person meeting with a ~~social worker~~ child protection specialist concerning emergency protective services. Reasonable accommodation must be made in scheduling an in-person meeting with the ~~social worker~~ child protection specialist.

(2) Pursuant to subsection (1), if the court finds probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence based on the petition and affidavit, the court may issue an order for immediate protection of the child. The court shall consider the parents' statements, if any, included with the petition and any accompanying affidavit or report to the court. If the court finds probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence, the court may issue an order granting the following forms of relief, which do not constitute a court-ordered treatment plan under 41-3-443:

(a) the right of entry by a peace officer or department worker;

(b) the right to place the child in temporary medical or out-of-home care, including but not limited to care provided by a noncustodial parent, kinship or foster family, group home, or institution;

(c) the right of the department to locate, contact, and share information with any extended family members who may be considered as placement options for the child;

(d) a requirement that the parents, guardian, or other person having physical or legal custody furnish information that the court may designate and obtain evaluations that may be necessary to determine whether a child is a youth in need of care;

(e) a requirement that the perpetrator of the alleged child abuse or neglect be removed from the home to allow the child to remain in the home;

(f) a requirement that the parent provide the department with the name and address of the other parent, if known, unless parental rights to the child have been terminated;

(g) a requirement that the parent provide the department with the names and addresses of extended family members who may be considered as placement options for the child who is the subject of the proceeding; and

(h) any other temporary disposition that may be required in the best interests of the child that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditure is reasonable and that resources are available for payment. The department is the payor of last

resort after all family, insurance, and other resources have been examined.

(3) An order for removal of a child from the home must include a finding that continued residence of the child with the parent is contrary to the welfare of the child or that an out-of-home placement is in the best interests of the child.

(4) The order for immediate protection of the child must require the person served to comply immediately with the terms of the order and to appear before the court issuing the order on the date specified for a show cause hearing. Upon a failure to comply or show cause, the court may hold the person in contempt or place temporary physical custody of the child with the department until further order.

(5) The petition must be served as provided in 41-3-422."

Section 15. Section 41-3-445, MCA, is amended to read:

"**41-3-445. Permanency hearing.** (1) (a) (i) Subject to subsection (1)(b), a permanency hearing must be held by the court or, subject to the approval of the court and absent an objection by a party to the proceeding, by the foster care review committee, as provided in 41-3-115, or the citizen review board, as provided in 41-3-1010:

(A) within 30 days of a determination that reasonable efforts to provide preservation or reunification services are not necessary under 41-3-423, 41-3-438(6), or 41-3-442(1); or

(B) no later than 12 months after the initial court finding that the child has been subjected to abuse or neglect or 12 months after the child's first 60 days of removal from the home, whichever comes first.

(ii) Within 12 months of a hearing under subsection (1)(a)(i)(B) and every 12 months thereafter until the child is permanently placed in either an adoptive or a guardianship placement, the court or the court-approved entity holding the permanency hearing shall conduct a hearing and the court shall issue a finding as to whether the department has made reasonable efforts to finalize the permanency plan for the child.

(b) A permanency hearing is not required if the proceeding has been dismissed, the child was not removed from the home, the child has been returned to the child's parent or guardian, or the child has been legally adopted or appointed a legal guardian.

(c) The permanency hearing may be combined with a hearing that is required in other sections of this part or with a review held pursuant to 41-3-115 or 41-3-1010 if held within the applicable time limits. If a

permanency hearing is combined with another hearing or a review, the requirements of the court related to the disposition of the other hearing or review must be met in addition to the requirements of this section.

(d) The court-approved entity conducting the permanency hearing may elect to hold joint or separate reviews for groups of siblings, but the court shall issue specific findings for each child.

(2) At least 3 working days prior to the permanency hearing, the department shall submit a report regarding the child to the entity that will be conducting the hearing for review. The report must address the department's efforts to effectuate the permanency plan for the child, address the options for the child's permanent placement, examine the reasons for excluding higher priority options, and set forth the proposed plan to carry out the placement decision, including specific times for achieving the plan.

(3) At least 3 working days prior to the permanency hearing, the guardian ad litem or an attorney or advocate for a parent or guardian may submit an informational report to the entity that will be conducting the hearing for review.

(4) In a permanency hearing, the court or other entity conducting the hearing shall consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.

(5) (a) The court's order must be issued within 20 days after the permanency hearing if the hearing was conducted by the court. If a member of the child's extended family, including an adult sibling, grandparent, great-grandparent, aunt, or uncle, has requested that custody be awarded to that family member or that a prior grant of temporary custody with that family member be made permanent, the department shall investigate and determine if awarding custody to that family member is in the best interests of the child. The department shall provide the reasons for any denial to the court. If the court accepts the department's custody recommendation, the court shall inform any denied family member of the reasons for the denial to the extent that confidentiality laws allow. The court shall include the reasons for denial in the court order if the family member who is denied custody requests it to be included.

(b) If an entity other than the court conducts the hearing, the entity shall keep minutes of the hearing and the minutes and written recommendations must be provided to the court within 20 days of the hearing.

(c) If an entity other than the court conducts the hearing and the court concurs with the recommendations, the court may adopt the recommendations as findings with no additional hearing required. In this case, the court shall issue written findings within 10 days of receipt of the written recommendations.

(6) The court shall approve a specific permanency plan for the child and make written findings on:

(a) whether the child has been asked about the desired permanency outcome;

(b) whether the permanency plan is in the best interests of the child;

(c) whether the department has made reasonable efforts to effectuate the permanency plan for the individual child;

(d) whether the department has made reasonable efforts to finalize the plan;

(e) whether there are compelling reasons why it is not in the best interest of the individual child to:

(i) return to the child's home; or

(ii) be placed for adoption, with a legal guardian, or with a fit and willing relative; and

(f) other necessary steps that the department is required to take to effectuate the terms of the plan.

(7) In its discretion, the court may enter any other order that it determines to be in the best interests of the child that does not conflict with the options provided in subsection (8) and that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditures are reasonable and that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

(8) Permanency options include:

(a) reunification of the child with the child's parent or guardian;

(b) permanent placement of the child with the noncustodial parent, superseding any existing custodial order;

(c) adoption;

(d) appointment of a guardian pursuant to 41-3-444; or

(e) long-term custody if the child is in a planned permanent living arrangement and if it is established by a preponderance of the evidence, which is reflected in specific findings by the court, that:

(i) the child is being cared for by a fit and willing relative;

(ii) the child has an emotional or mental handicap that is so severe that the child cannot function in a family setting and the best interests of the child are served by placement in a residential or group setting;

(iii) the child is at least 16 years of age and is participating in an independent living program and that termination of parental rights is not in the best interests of the child;

(iv) the child's parent is incarcerated and circumstances, including placement of the child and continued, frequent contact with the parent, indicate that it would not be in the best interests of the child to terminate parental rights of that parent; or

(v) the child meets the following criteria:

(A) the child has been adjudicated a youth in need of care;

(B) the department has made reasonable efforts to reunite the parent and child, further efforts by the department would likely be unproductive, and reunification of the child with the parent or guardian would be contrary to the best interests of the child;

(C) there is a judicial finding that other more permanent placement options for the child have been considered and found to be inappropriate or not to be in the best interests of the child; and

(D) the child has been in a placement in which the foster parent or relative has committed to the long-term care and to a relationship with the child, and it is in the best interests of the child to remain in that placement.

(9) For a child 14 years of age or older, the permanency plan must:

(a) be developed in consultation with the child and in consultation with up to two members of the child's case planning team who are chosen by the child and who are not a foster parent or ~~social worker~~ child protection specialist for the child;

(b) identify one person from the case management team, who is selected by the child, to be designated as the child's advisor and advocate for the application of the reasonable and prudent parenting standard; and

(c) include services that will be needed to transition the child from foster care to adulthood.

(10) A permanency hearing must document the intensive, ongoing, and unsuccessful efforts made by the department to return the child to the child's home or to secure a permanent placement of the child with a relative, legal guardian, or adoptive parent.

(11) The court may terminate a planned permanent living arrangement upon petition of the birth parents or the department if the court finds that the circumstances of the child or family have substantially changed and the best interests of the child are no longer being served."

NEW SECTION. **Section 16. Codification instruction.** (1) [Sections 1 through 5] are intended to be codified as a new chapter in Title 37, and the provisions of Title 37 apply to [sections 1 through 5].

(2) [Section 6] is intended to be codified as an integral part of Title 40, chapter 3, part 1, and the provisions of Title 40, chapter 3, part 1, apply to [section 6].

- END -

HOUSE BILL NO. 459

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR CERTIFICATION OF CHILD PROTECTION SPECIALISTS INVESTIGATING MATTERS OF SUSPECTED CHILD ABUSE, NEGLECT, OR ENDANGERMENT; PROVIDING IMPLEMENTATION INSTRUCTIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 37-22-201, 41-3-102, 41-3-108, 41-3-201, 41-3-202, 41-3-205, 41-3-301, 41-3-427, AND 41-3-445, MCA.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Child protection specialist.** The profession of child protection specialist is subject to certification requirements set forth in [sections 1 through 5] and by rules promulgated by the board of behavioral health.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 5], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of behavioral health established under 2-15-1744.

(2) "Certified child protection specialist" means a person who:

(a) has obtained the education and skills needed to investigate, respond to, prevent, and resolve reports of abuse, neglect, and endangerment experienced by children; and

(b) possesses a valid and current certification.

NEW SECTION. **Section 3. Certification required for use of title -- exceptions.** (1) On certification in accordance with [sections 1 through 5], a person may use the title "certified child protection specialist".

(2) Subsection (1) does not prohibit a qualified member of another profession, such as a law enforcement officer, lawyer, psychologist, pastoral counselor, probation officer, court employee, nurse, school counselor, educator, baccalaureate, master's, or clinical social worker licensed pursuant to Title 37, chapter 22,

clinical professional counselor licensed pursuant to Title 37, chapter 23, addiction counselor licensed pursuant to Title 37, chapter 35, or marriage and family therapist licensed pursuant to Title 37, chapter 37, from performing duties and services consistent with the person's licensure or certification and the code of ethics of the person's profession.

(3) Subsection (1) does not prohibit a qualified member of another profession, business, educational program, or volunteer organization who is not licensed or certified or for whom there is no applicable code of ethics, including a guardian ad litem, child advocate, or law enforcement officer, from performing duties and services consistent with the person's training, as long as the person does not represent by title that the person is a certified child protection specialist.

NEW SECTION. **Section 4. Certificate requirements -- supervision -- fees.** (1) An applicant for certification as a child protection specialist shall submit a written application on a form provided by the board and an application fee prescribed by the board. A certification must be renewed as provided in [section 5].

(2) An applicant must have:

(a) successfully completed a course in child protection, as defined by the board by rule, which must include training in:

(i) ethics;

(ii) governing statutory and regulatory framework;

(iii) role of law enforcement;

(iv) crisis intervention techniques;

(v) childhood trauma research; and

(vi) evidence-based practices for family preservation and strengthening; and

(b) demonstrated the applicant's ability to perform all essential functions of the certified child protection role by earning a passing score on a competency examination as provided for by the board.

(3) As a prerequisite to the issuance of a certificate, the board shall require the applicant to submit fingerprints for the purpose of fingerprint background checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(4) Pursuant to 37-1-203, an applicant who has a history of criminal convictions has the opportunity to

demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust. The board may deny the ~~license~~ CERTIFICATE if it determines that the applicant is not sufficiently rehabilitated.

NEW SECTION. **Section 5. Certificate renewal -- continuing education.** A certified child protection specialist shall renew the specialist's certification annually using a process specified by board rule, which must include:

(1) payment of a fee prescribed by the board; and

(2) proof of completion of at least 20 hours of continuing education developed or approved by the department, which may include any topic listed in subsection (2) of [section 4] and must include at least one unit focused on:

(a) ethics; and

(b) recent developments in governing law or rule.

NEW SECTION. **Section 6. Implementation of certification requirement for child protection specialists.** (1) A person hired by the department for a child-facing position after [the effective date of this act] shall become a certified child protection specialist pursuant to [sections 1 through 5] before beginning work that involves interaction with minors.

(2) A person already employed by the department in a child-facing position before [the effective date of this act] shall obtain child protection specialist certification pursuant to [sections 1 through 5] by October 1, 2023.

(3) For the purpose of this section, "child-facing position" means an employee role under this chapter that involves regular interaction with minors, including but not limited to investigating reports of child abuse, neglect, or endangerment.

Section 7. Section 37-22-201, MCA, is amended to read:

"**37-22-201. Duties of board.** The board:

(1) shall recommend prosecutions for violations of 37-22-411, 37-23-311, Title 37, chapter 35, ~~and~~ Title 37, chapter 37, and [sections 1 through 5], to the attorney general or the appropriate county attorney, or

both;

(2) shall meet at least once every 3 months to perform the duties described in Title 37, chapters 1, 23, 35, and 37, [sections 1 through 5], and this chapter. The board may, once a year by a consensus of board members, determine that there is no necessity for a board meeting.

(3) shall adopt rules that set professional, practice, and ethical standards for social workers, marriage and family therapists, addiction counselors, child protection specialists, and professional counselors and other rules as may be reasonably necessary for the administration of chapters 23, 35, and 37, [sections 1 through 5], and this chapter; and

(4) may adopt rules governing the issuance of licenses of special competence in particular areas of practice as a licensed professional counselor. The board shall establish criteria for each particular area for which a license is issued."

Section 8. Section 41-3-102, MCA, is amended to read:

"**41-3-102. Definitions.** As used in this chapter, the following definitions apply:

(1) (a) "Abandon", "abandoned", and "abandonment" mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) "A person responsible for a child's welfare" means:

(a) the child's parent, guardian, or foster parent or an adult who resides in the same home in which

the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child's welfare in a residential setting.

(3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) "Adequate health care" means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) "Best interests of the child" means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) "Child" or "youth" means any person under 18 years of age.

(7) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare;

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(C) any form of child sex trafficking or human trafficking.

(ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as "serious emotional or physical damage to the child" as used in 25 U.S.C. 1912(f).

(d) The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child.

(8) "Child protection specialist" means an employee of the department who investigates allegations of child abuse, neglect, and endangerment and has been certified pursuant to [section 3].

~~(8)~~(9) "Concurrent planning" means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

~~(9)~~(10) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(10)~~(11) "Family group decisionmaking meeting" means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

~~(11)~~(12) "Indian child" means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

~~(12)~~(13) "Indian child's tribe" means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

~~(13)~~(14) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child's parent.

~~(14)~~(15) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group's status as Indians, including any Alaskan native village as defined in federal law.

~~(15)~~(16) "Limited emancipation" means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

~~(16)~~(17) "Parent" means a biological or adoptive parent or stepparent.

~~(17)~~(18) "Parent-child legal relationship" means the legal relationship that exists between a child and the child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

~~(18)~~(19) "Permanent placement" means reunification of the child with the child's parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

~~(19)~~(20) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

~~(20)~~(21) "Physical neglect" means either failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.

~~(21)~~(22) (a) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or other person responsible for the child's welfare:

(i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;

(ii) commits or allows sexual abuse or exploitation of the child;

(iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child's welfare;

(iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;

(v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or

(vi) abandons the child.

(b) The term does not include a youth not receiving supervision solely because of parental inability to control the youth's behavior.

~~(22)~~(23) (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, voluntary protective services provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

~~(23)~~(24) (a) "Psychological abuse or neglect" means severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child's home.

(b) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

~~(24)~~(25) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within

the Indian child's tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

~~(25)~~(26) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

~~(26)~~(27) "Residential setting" means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

~~(27)~~(28) "Safety and risk assessment" means an evaluation by a ~~social worker~~ child protection specialist following an initial report of child abuse or neglect to assess the following:

(a) the existing threat or threats to the child's safety;

(b) the protective capabilities of the parent or guardian;

(c) any particular vulnerabilities of the child;

(d) any interventions required to protect the child; and

(e) the likelihood of future physical or psychological harm to the child.

~~(28)~~(29) (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child's welfare.

~~(29)~~(30) "Sexual exploitation" means:

(a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601 through 45-5-603;

(b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or

(c) allowing, permitting, or encouraging sexual servitude as described in 45-5-704 or 45-5-705.

~~(30) (a) "Social worker" means an employee of the department who, before the employee's field~~

~~assignment, has been educated or trained in a program of social work or a related field that includes cognitive and family systems treatment or who has equivalent verified experience or verified training in the investigation of child abuse, neglect, and endangerment.~~

~~(b) This definition does not apply to any provision of this code that is not in this chapter.~~

(31) "Treatment plan" means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(32) (a) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (32), "infant" means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(33) "Youth in need of care" means a youth who has been adjudicated or determined, after a hearing,

to be or to have been abused, neglected, or abandoned."

Section 9. Section 41-3-108, MCA, is amended to read:

"**41-3-108. Child protective teams.** The county attorney, county commissioners, guardian ad litem, or department may convene one or more temporary or permanent interdisciplinary child protective teams. These teams may assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to the child and the child's family. The supervisor of child protective services in a local service area or the supervisor's designee shall serve as the team's coordinator. Members must include:

(1) a ~~social worker~~ child protection specialist;

(2) a member of a local law enforcement agency;

(3) a representative of the medical profession;

(4) a representative of a public school system;

(5) a county attorney; and

(6) if an Indian child or children are involved, someone, preferably an Indian person, knowledgeable about Indian culture and family matters."

Section 10. Section 41-3-201, MCA, is amended to read:

"**41-3-201. Reports.** (1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:

(a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;

(c) religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a social worker licensed pursuant to Title 37, child protection specialist, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;

(f) a foster care, residential, or institutional worker;

(g) a peace officer or other law enforcement official;

(h) a member of the clergy, as defined in 15-6-201(2)(b);

(i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect;

(j) an employee of an entity that contracts with the department to provide direct services to children; and

(k) an employee of the department while in conduct of the employee's duties.

(3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.

(4) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.

(5) (a) When a professional or official required to report under subsection (2) makes a report, the department may share information with:

(i) that professional or official;

(ii) other individuals with whom the professional or official works in an official capacity if the individuals are part of a team that responds to matters involving the child or the person about whom the report was made and the professional or official has asked that the information be shared with the individuals; or

(iii) the child abuse and neglect review commission established in 2-15-2019.

(b) The department may provide information in accordance with 41-3-202(8) and also share information about the investigation, limited to its outcome and any subsequent action that will be taken on behalf of the child who is the subject of the report.

(c) Individuals who receive information pursuant to this subsection (5) shall maintain the confidentiality of the information as required by 41-3-205.

(6) (a) Except as provided in subsection (6)(b) or (6)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

(b) A member of the clergy or a priest is not required to make a report under this section if:

(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;

(ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and

(iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.

(c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

(7) The reports referred to under this section must contain:

(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;

(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible for the injury or neglect; and

(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter. (Subsection (5)(a)(iii) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 11. Section 41-3-202, MCA, is amended to read:

"**41-3-202. Action on reporting.** (1) (a) Upon receipt of a report that a child is or has been abused or neglected, the department shall promptly assess the information contained in the report and make a

determination regarding the level of response required and the timeframe within which action must be initiated.

(b) (i) Except as provided in subsection (1)(b)(ii), upon receipt of a report that includes an allegation of sexual abuse or sexual exploitation or if the department determines during any investigation that the circumstances surrounding an allegation of child abuse or neglect include an allegation of sexual abuse or sexual exploitation, the department shall immediately report the allegation to the county attorney of the county in which the acts that are the subject of the report occurred.

(ii) If a victim of sexual abuse or sexual exploitation has attained the age of 14 and has sought services from a contractor as described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault, conditioned upon an understanding that the criminal conduct will not be reported by the department to the county attorney in the jurisdiction in which the alleged crime occurred, the department may not report pursuant to 41-3-205(5)(d) and subsection (1)(b)(i) of this section.

(c) If the department determines that an investigation and a safety and risk assessment are required, a ~~social worker~~ child protection specialist shall promptly conduct a thorough investigation into the circumstances surrounding the allegations of abuse or neglect of the child and perform a safety and risk assessment to determine whether the living arrangement presents an unsafe environment for the child. The safety and risk assessment may include an investigation at the home of the child involved, the child's school or day-care facility, or any other place where the child is present and into all other nonfinancial matters that in the discretion of the investigator are relevant to the safety and risk assessment. In conducting a safety and risk assessment under this section, a ~~social worker~~ child protection specialist may not inquire into the financial status of the child's family or of any other person responsible for the child's care, except as necessary to ascertain eligibility for state or federal assistance programs or to comply with the provisions of 41-3-446.

(2) An initial investigation of alleged abuse or neglect may be conducted when an anonymous report is received. However, if the initial investigation does not within 48 hours result in the development of independent, corroborative, and attributable information indicating that there exists a current risk of physical or psychological harm to the child, a child may not be removed from the living arrangement. If independent, corroborative, and attributable information indicating an ongoing risk results from the initial investigation, the department shall then conduct a safety and risk assessment.

(3) The ~~social worker~~ child protection specialist is responsible for conducting the safety and risk

assessment. If the child is treated at a medical facility, the ~~social worker~~ child protection specialist, county attorney, or peace officer, consistent with reasonable medical practice, has the right of access to the child for interviews, photographs, and securing physical evidence and has the right of access to relevant hospital and medical records pertaining to the child. If an interview of the child is considered necessary, the ~~social worker~~ child protection specialist, county attorney, or peace officer may conduct an interview of the child. The interview may be conducted in the presence of the parent or guardian or an employee of the school or day-care facility attended by the child.

(4) Subject to 41-3-205(3), if the child's interview is audiotaped or videotaped, an unedited audiotape or videotape with audio track must be made available, upon request, for unencumbered review by the family.

(5) (a) If from the safety and risk assessment the department has reasonable cause to suspect that the child is suffering abuse or neglect, the department may provide emergency protective services to the child, pursuant to 41-3-301, or voluntary protective services pursuant to 41-3-302, and may provide protective services to any other child under the same care. The department shall:

(i) after interviewing the parent or guardian, if reasonably available, document the determinations of the safety and risk assessment; and

(ii) notify the child's family of the determinations of the safety and risk assessment, unless the notification can reasonably be expected to result in harm to the child or other person.

(b) Except as provided in subsection (5)(c), the department shall destroy all safety and risk assessment determinations and associated records, except for medical records, within 30 days after the end of the 3-year period starting from the date of completion of the safety and risk assessment.

(c) Safety and risk assessment determinations and associated records may be maintained for a reasonable time as defined by department rule under the following circumstances:

(i) the safety and risk assessment determines that abuse or neglect occurred;

(ii) there had been a previous or there is a subsequent report and investigation resulting in a safety and risk assessment concerning the same person; or

(iii) an order has been issued by a court of competent jurisdiction adjudicating the child as a youth in need of care based on the circumstances surrounding the initial allegations.

(6) The investigating ~~social worker~~ child protection specialist, within 60 days of commencing an

investigation, shall also furnish a written safety and risk assessment to the department and, upon request, to the family. Subject to time periods set forth in subsections (5)(b) and (5)(c), the department shall maintain a record system documenting investigations and safety and risk assessment determinations. Unless records are required to be destroyed under subsections (5)(b) and (5)(c), the department shall retain records relating to the safety and risk assessment, including case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

(7) Any person reporting abuse or neglect that involves acts or omissions on the part of a public or private residential institution, home, facility, or agency is responsible for ensuring that the report is made to the department.

(8) The department shall, upon request from any reporter of alleged child abuse or neglect, verify whether the report has been received, describe the level of response and timeframe for action that the department has assigned to the report, and confirm that it is being acted upon."

Section 12. Section 41-3-205, MCA, is amended to read:

"**41-3-205. Confidentiality -- disclosure exceptions.** (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal

organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department[, including the child abuse and neglect review commission established in 2-15-2019];

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

(p) the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a ~~social worker~~ child protection specialist, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county or regional interdisciplinary child information and school safety team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) (a) The records described in subsection (3) must be disclosed to a member of the United States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United States or the state of Montana that protect children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the department in locating the records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records.

(b) Records disclosed pursuant to subsection (4)(a) are confidential, must be made available for the member to view but may not be copied, recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's possession. The member must be allowed to view the records in the local office where the case is or was active.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

(i) the attorney general;

(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;

(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or

(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502; or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault shall report to the department as provided in this part without

disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a) and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or guardian's attorney must be provided without cost. (Bracketed language in subsection (3)(m) terminates

September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 13. Section 41-3-301, MCA, is amended to read:

"**41-3-301. Emergency protective service.** (1) Any child ~~protective social worker~~ protection specialist of the department, a peace officer, or the county attorney who has reason to believe any child is in immediate or apparent danger of harm may immediately remove the child and place the child in a protective facility. After ensuring that the child is safe, the department may make a request for further assistance from the law enforcement agency or take appropriate legal action. The person or agency placing the child shall notify the parents, parent, guardian, or other person having physical or legal custody of the child of the placement at the time the placement is made or as soon after placement as possible. Notification under this subsection must include the reason for removal, information regarding the show cause hearing, and the purpose of the show cause hearing and must advise the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person may have a support person present during any in-person meeting with the ~~social worker~~ child protection specialist concerning emergency protective services.

(2) If a ~~social worker of the department~~ child protection specialist, a peace officer, or the county attorney determines in an investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or family member assault, as provided for in 45-5-206, or strangulation of a partner or family member, as provided for in 45-5-215, against an adult member of the household or that the child needs protection as a result of the occurrence of partner or family member assault or strangulation of a partner or family member against an adult member of the household, the department shall take appropriate steps for the protection of the child, which may include:

(a) making reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is a victim of alleged partner or family member assault or strangulation of a partner or family member;

(b) making reasonable efforts to remove the person who allegedly committed the partner or family member assault or strangulation of a partner or family member from the child's residence if it is determined that the child or another family or household member is in danger of partner or family member assault or strangulation of a partner or family member; and

(c) providing services to help protect the child from being placed with or having unsupervised visitation with the person alleged to have committed partner or family member assault or strangulation of a partner or family member until the department determines that the alleged offender has met conditions considered necessary to protect the safety of the child.

(3) If the department determines that an adult member of the household is the victim of partner or family member assault or strangulation of a partner or family member, the department shall provide the adult victim with a referral to a domestic violence program.

(4) A child who has been removed from the child's home or any other place for the child's protection or care may not be placed in a jail.

(5) The department may locate and contact extended family members upon placement of a child in out-of-home care. The department may share information with extended family members for placement and case planning purposes.

(6) If a child is removed from the child's home by the department, a child ~~protective social worker~~ protection specialist shall submit an affidavit regarding the circumstances of the emergency removal to the county attorney and provide a copy of the affidavit to the parents or guardian, if possible, within 2 working days of the emergency removal. An abuse and neglect petition must be filed within 5 working days, excluding weekends and holidays, of the emergency removal of a child unless arrangements acceptable to the agency for the care of the child have been made by the parents or voluntary protective services are provided pursuant to 41-3-302.

(7) Except as provided in the federal Indian Child Welfare Act, if applicable, a show cause hearing must be held within 20 days of the filing of the petition unless otherwise stipulated by the parties pursuant to 41-3-434.

(8) If the department determines that a petition for immediate protection and emergency protective services must be filed to protect the safety of the child, the ~~social worker~~ child protection specialist shall interview the parents of the child to whom the petition pertains, if the parents are reasonably available, before the petition may be filed. The district court may immediately issue an order for immediate protection of the child.

(9) The department shall make the necessary arrangements for the child's well-being as are required prior to the court hearing."

Section 14. Section 41-3-427, MCA, is amended to read:

"**41-3-427. Petition for immediate protection and emergency protective services -- order -- service.** (1) (a) In a case in which it appears that a child is abused or neglected or is in danger of being abused or neglected, the county attorney, the attorney general, or an attorney hired by the county may file a petition for immediate protection and emergency protective services. In implementing the policy of this section, the child's health and safety are of paramount concern.

(b) A petition for immediate protection and emergency protective services must state the specific authority requested and must be supported by an affidavit signed by a representative of the department stating in detail the alleged facts upon which the request is based and the facts establishing probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence that a child is abused or neglected or is in danger of being abused or neglected. The affidavit of the department representative must contain information, if any, regarding statements made by the parents about the facts of the case.

(c) If from the alleged facts presented in the affidavit it appears to the court that there is probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence to believe that the child has been abused or neglected or is in danger of being abused and neglected, the judge shall grant emergency protective services and the relief authorized by subsection (2) until the adjudication hearing or the temporary investigative hearing. If it appears from the alleged facts contained in the affidavit that there is insufficient probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence to believe that the child has been abused or neglected or is in danger of being abused or neglected, the court shall dismiss the petition.

(d) If the parents, parent, guardian, person having physical or legal custody of the child, or attorney for the child disputes the material issues of fact contained in the affidavit or the veracity of the affidavit, the person may request a contested show cause hearing pursuant to 41-3-432 within 10 days following service of the petition and affidavit.

(e) The petition for immediate protection and emergency protective services must include a notice advising the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person having physical or legal custody of the child may have a support

person present during any in-person meeting with a ~~social worker~~ child protection specialist concerning emergency protective services. Reasonable accommodation must be made in scheduling an in-person meeting with the ~~social worker~~ child protection specialist.

(2) Pursuant to subsection (1), if the court finds probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence based on the petition and affidavit, the court may issue an order for immediate protection of the child. The court shall consider the parents' statements, if any, included with the petition and any accompanying affidavit or report to the court. If the court finds probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence, the court may issue an order granting the following forms of relief, which do not constitute a court-ordered treatment plan under 41-3-443:

(a) the right of entry by a peace officer or department worker;

(b) the right to place the child in temporary medical or out-of-home care, including but not limited to care provided by a noncustodial parent, kinship or foster family, group home, or institution;

(c) the right of the department to locate, contact, and share information with any extended family members who may be considered as placement options for the child;

(d) a requirement that the parents, guardian, or other person having physical or legal custody furnish information that the court may designate and obtain evaluations that may be necessary to determine whether a child is a youth in need of care;

(e) a requirement that the perpetrator of the alleged child abuse or neglect be removed from the home to allow the child to remain in the home;

(f) a requirement that the parent provide the department with the name and address of the other parent, if known, unless parental rights to the child have been terminated;

(g) a requirement that the parent provide the department with the names and addresses of extended family members who may be considered as placement options for the child who is the subject of the proceeding; and

(h) any other temporary disposition that may be required in the best interests of the child that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditure is reasonable and that resources are available for payment. The department is the payor of last

resort after all family, insurance, and other resources have been examined.

(3) An order for removal of a child from the home must include a finding that continued residence of the child with the parent is contrary to the welfare of the child or that an out-of-home placement is in the best interests of the child.

(4) The order for immediate protection of the child must require the person served to comply immediately with the terms of the order and to appear before the court issuing the order on the date specified for a show cause hearing. Upon a failure to comply or show cause, the court may hold the person in contempt or place temporary physical custody of the child with the department until further order.

(5) The petition must be served as provided in 41-3-422."

Section 15. Section 41-3-445, MCA, is amended to read:

"**41-3-445. Permanency hearing.** (1) (a) (i) Subject to subsection (1)(b), a permanency hearing must be held by the court or, subject to the approval of the court and absent an objection by a party to the proceeding, by the foster care review committee, as provided in 41-3-115, or the citizen review board, as provided in 41-3-1010:

(A) within 30 days of a determination that reasonable efforts to provide preservation or reunification services are not necessary under 41-3-423, 41-3-438(6), or 41-3-442(1); or

(B) no later than 12 months after the initial court finding that the child has been subjected to abuse or neglect or 12 months after the child's first 60 days of removal from the home, whichever comes first.

(ii) Within 12 months of a hearing under subsection (1)(a)(i)(B) and every 12 months thereafter until the child is permanently placed in either an adoptive or a guardianship placement, the court or the court-approved entity holding the permanency hearing shall conduct a hearing and the court shall issue a finding as to whether the department has made reasonable efforts to finalize the permanency plan for the child.

(b) A permanency hearing is not required if the proceeding has been dismissed, the child was not removed from the home, the child has been returned to the child's parent or guardian, or the child has been legally adopted or appointed a legal guardian.

(c) The permanency hearing may be combined with a hearing that is required in other sections of this part or with a review held pursuant to 41-3-115 or 41-3-1010 if held within the applicable time limits. If a

permanency hearing is combined with another hearing or a review, the requirements of the court related to the disposition of the other hearing or review must be met in addition to the requirements of this section.

(d) The court-approved entity conducting the permanency hearing may elect to hold joint or separate reviews for groups of siblings, but the court shall issue specific findings for each child.

(2) At least 3 working days prior to the permanency hearing, the department shall submit a report regarding the child to the entity that will be conducting the hearing for review. The report must address the department's efforts to effectuate the permanency plan for the child, address the options for the child's permanent placement, examine the reasons for excluding higher priority options, and set forth the proposed plan to carry out the placement decision, including specific times for achieving the plan.

(3) At least 3 working days prior to the permanency hearing, the guardian ad litem or an attorney or advocate for a parent or guardian may submit an informational report to the entity that will be conducting the hearing for review.

(4) In a permanency hearing, the court or other entity conducting the hearing shall consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.

(5) (a) The court's order must be issued within 20 days after the permanency hearing if the hearing was conducted by the court. If a member of the child's extended family, including an adult sibling, grandparent, great-grandparent, aunt, or uncle, has requested that custody be awarded to that family member or that a prior grant of temporary custody with that family member be made permanent, the department shall investigate and determine if awarding custody to that family member is in the best interests of the child. The department shall provide the reasons for any denial to the court. If the court accepts the department's custody recommendation, the court shall inform any denied family member of the reasons for the denial to the extent that confidentiality laws allow. The court shall include the reasons for denial in the court order if the family member who is denied custody requests it to be included.

(b) If an entity other than the court conducts the hearing, the entity shall keep minutes of the hearing and the minutes and written recommendations must be provided to the court within 20 days of the hearing.

(c) If an entity other than the court conducts the hearing and the court concurs with the recommendations, the court may adopt the recommendations as findings with no additional hearing required. In this case, the court shall issue written findings within 10 days of receipt of the written recommendations.

(6) The court shall approve a specific permanency plan for the child and make written findings on:

(a) whether the child has been asked about the desired permanency outcome;

(b) whether the permanency plan is in the best interests of the child;

(c) whether the department has made reasonable efforts to effectuate the permanency plan for the individual child;

(d) whether the department has made reasonable efforts to finalize the plan;

(e) whether there are compelling reasons why it is not in the best interest of the individual child to:

(i) return to the child's home; or

(ii) be placed for adoption, with a legal guardian, or with a fit and willing relative; and

(f) other necessary steps that the department is required to take to effectuate the terms of the plan.

(7) In its discretion, the court may enter any other order that it determines to be in the best interests of the child that does not conflict with the options provided in subsection (8) and that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditures are reasonable and that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

(8) Permanency options include:

(a) reunification of the child with the child's parent or guardian;

(b) permanent placement of the child with the noncustodial parent, superseding any existing custodial order;

(c) adoption;

(d) appointment of a guardian pursuant to 41-3-444; or

(e) long-term custody if the child is in a planned permanent living arrangement and if it is established by a preponderance of the evidence, which is reflected in specific findings by the court, that:

(i) the child is being cared for by a fit and willing relative;

(ii) the child has an emotional or mental handicap that is so severe that the child cannot function in a family setting and the best interests of the child are served by placement in a residential or group setting;

(iii) the child is at least 16 years of age and is participating in an independent living program and that termination of parental rights is not in the best interests of the child;

(iv) the child's parent is incarcerated and circumstances, including placement of the child and continued, frequent contact with the parent, indicate that it would not be in the best interests of the child to terminate parental rights of that parent; or

(v) the child meets the following criteria:

(A) the child has been adjudicated a youth in need of care;

(B) the department has made reasonable efforts to reunite the parent and child, further efforts by the department would likely be unproductive, and reunification of the child with the parent or guardian would be contrary to the best interests of the child;

(C) there is a judicial finding that other more permanent placement options for the child have been considered and found to be inappropriate or not to be in the best interests of the child; and

(D) the child has been in a placement in which the foster parent or relative has committed to the long-term care and to a relationship with the child, and it is in the best interests of the child to remain in that placement.

(9) For a child 14 years of age or older, the permanency plan must:

(a) be developed in consultation with the child and in consultation with up to two members of the child's case planning team who are chosen by the child and who are not a foster parent or ~~social worker~~ child protection specialist for the child;

(b) identify one person from the case management team, who is selected by the child, to be designated as the child's advisor and advocate for the application of the reasonable and prudent parenting standard; and

(c) include services that will be needed to transition the child from foster care to adulthood.

(10) A permanency hearing must document the intensive, ongoing, and unsuccessful efforts made by the department to return the child to the child's home or to secure a permanent placement of the child with a relative, legal guardian, or adoptive parent.

(11) The court may terminate a planned permanent living arrangement upon petition of the birth parents or the department if the court finds that the circumstances of the child or family have substantially changed and the best interests of the child are no longer being served."

NEW SECTION. **Section 16. Codification instruction.** (1) [Sections 1 through 5] are intended to be codified as a new chapter in Title 37, and the provisions of Title 37 apply to [sections 1 through 5].

(2) [Section 6] is intended to be codified as an integral part of Title 40, chapter 3, part 1, and the provisions of Title 40, chapter 3, part 1, apply to [section 6].

- END -

HOUSE BILL NO. 459

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR CERTIFICATION OF CHILD PROTECTION SPECIALISTS INVESTIGATING MATTERS OF SUSPECTED CHILD ABUSE, NEGLECT, OR ENDANGERMENT; PROVIDING IMPLEMENTATION INSTRUCTIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND AMENDING SECTIONS ~~37-22-201,~~ 41-3-102, 41-3-108, 41-3-201, 41-3-202, 41-3-205, 41-3-301, 41-3-427, AND 41-3-445, MCA.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION.~~ **~~Section 1.~~** ~~— **Child protection specialist .** The profession of child protection specialist is subject to certification requirements set forth in [sections 1 through 5] and by rules promulgated by the board of behavioral health.~~

~~NEW SECTION.~~ **Section 2.** ~~— **Definitions .** As used in [sections 1 through 5], unless the context clearly indicates otherwise, the following definitions apply:~~

~~(1) "Board" means the board of behavioral health established under 2-15-1744.~~

~~(2) "Certified child protection specialist" means a person who:~~

~~(a) has obtained the education and skills needed to investigate, respond to, prevent, and resolve reports of abuse, neglect, and endangerment experienced by children ; and~~

~~(b) possesses a valid and current certification.~~

NEW SECTION. **Section 1. Certification required for use of title -- exceptions.** (1) On certification in accordance with [sections 1 through ~~5~~ 4], a person may use the title "certified child protection specialist".

(2) Subsection (1) does not prohibit a qualified member of another profession, such as a law enforcement officer, lawyer, psychologist, pastoral counselor, probation officer, court employee, nurse, school counselor, educator, baccalaureate, master's, or clinical social worker licensed pursuant to Title 37, chapter 22,

clinical professional counselor licensed pursuant to Title 37, chapter 23, addiction counselor licensed pursuant to Title 37, chapter 35, or marriage and family therapist licensed pursuant to Title 37, chapter 37, from performing duties and services consistent with the person's licensure or certification and the code of ethics of the person's profession.

(3) Subsection (1) does not prohibit a qualified member of another profession, business, educational program, or volunteer organization who is not licensed or certified or for whom there is no applicable code of ethics, including a guardian ad litem, child advocate, or law enforcement officer, from performing duties and services consistent with the person's training, as long as the person does not represent by title that the person is a certified child protection specialist.

NEW SECTION. **Section 2. Certificate requirements -- supervision -- fees.** (1) An applicant for certification as a child protection specialist shall ~~submit a written application on a form provided by the board and an application fee prescribed by the board. A certification must be renewed as provided in [section 5].~~

~~(2) An applicant must have~~:

(a) successfully ~~completed~~ COMPLETE a course in child protection, as defined by the ~~board~~ DEPARTMENT by rule, which must include training in:

(i) ethics;

(ii) governing statutory and regulatory framework;

(iii) role of law enforcement;

(iv) crisis intervention techniques;

(v) childhood trauma research; ~~and~~

(vi) evidence-based practices for family preservation and strengthening; and

(VII) THE PROVISIONS OF THE INDIAN CHILD WELFARE ACT, 25 U.S.C. 1902, ET SEQ.; AND

(b) ~~demonstrated~~ DEMONSTRATE the applicant's ability to perform all essential functions of the certified child protection role by earning a passing score on a competency examination ~~as provided for by the board~~ DEVELOPED PURSUANT TO [SECTION 4].

(2) As a prerequisite to the issuance of a certificate, the ~~board~~ DEPARTMENT shall require the applicant to submit fingerprints for the purpose of fingerprint background checks by the Montana department of justice

and the federal bureau of investigation as provided in 37-1-307.

(3) ~~Pursuant to 37-1-203, an~~ AN applicant who has a history of criminal convictions has the opportunity to demonstrate to the ~~board~~ DEPARTMENT that the applicant is sufficiently rehabilitated to warrant the public trust. The ~~board~~ DEPARTMENT may deny the ~~license~~ CERTIFICATE if it determines that the applicant is not sufficiently rehabilitated.

NEW SECTION. **Section 3. Certificate renewal -- continuing education.** (1) A certified child protection specialist shall renew the specialist's certification annually using a process specified by ~~board~~ DEPARTMENT rule, which must include~~:~~

~~(1) payment of a fee prescribed by the board; and~~

proof of completion of at least 20 hours of continuing education developed or approved by the department~~, which~~ .

(2) THE CONTINUING EDUCATION may include any topic listed in subsection ~~(2)~~ (1) of [section ~~4~~ 2] and must include at least one unit focused on:

(a) ethics; and

(b) recent developments in governing law or rule.

NEW SECTION. **Section 4. Implementation of certification requirement for child protection specialists.** (1) (A) THE DEPARTMENT SHALL ENGAGE AND COLLABORATE WITH AN EXTERNAL ORGANIZATION TO DEVELOP A CHILD WELFARE CERTIFICATION AND TRAINING PROGRAM, INCLUDING A COMPETENCY EXAMINATION, THAT MUST BE AN ONGOING COMPONENT OF THE DEPARTMENT'S CHILD WELFARE WORK.

(B) THE PROGRAM AND EXAMINATION MUST BE REEVALUATED EVERY 2 YEARS TO ENSURE THAT THEY:

(I) REFLECT CURRENT TRENDS, RESEARCH, AND DEVELOPMENTS IN THE LAW; AND

(II) PROMOTE EVIDENCE-BASED OR EVIDENCE-INFORMED PRACTICES.

(2) A person hired by the department for a child-facing position after [the effective date of this act] shall become a certified child protection specialist pursuant to [sections 1 through ~~5~~ 4] ~~before beginning work that involves interaction with minors~~ WITHIN 1 YEAR OF THE DATE OF HIRE.

(3) A person already employed by the department in a child-facing position before [the effective date

of this act] shall obtain child protection specialist certification pursuant to [sections 1 through ~~5~~ 4] by October 1, 2023.

(4) For the purpose of this section, "child-facing position" means an employee role under this chapter that involves regular interaction with minors, including but not limited to investigating reports of child abuse, neglect, or endangerment.

Section 7. ~~Section 37-22-201, MCA, is amended to read:~~

"~~**37-22-201. Duties of board.** The board:~~

~~(1) shall recommend prosecutions for violations of 37-22-411, 37-23-311, Title 37, chapter 35, and Title 37, chapter 37, and [sections 1 through 5], to the attorney general or the appropriate county attorney, or both;~~

~~(2) shall meet at least once every 3 months to perform the duties described in Title 37, chapters 1, 23, 35, and 37, [sections 1 through 5], and this chapter. The board may, once a year by a consensus of board members, determine that there is no necessity for a board meeting.~~

~~(3) shall adopt rules that set professional, practice, and ethical standards for social workers, marriage and family therapists, addiction counselors, child protection specialists, and professional counselors and other rules as may be reasonably necessary for the administration of chapters 23, 35, and 37, [sections 1 through 5], and this chapter; and~~

~~(4) may adopt rules governing the issuance of licenses of special competence in particular areas of practice as a licensed professional counselor. The board shall establish criteria for each particular area for which a license is issued.~~"

Section 5. Section 41-3-102, MCA, is amended to read:

"**41-3-102. Definitions.** As used in this chapter, the following definitions apply:

(1) (a) "Abandon", "abandoned", and "abandonment" mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not

manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) "A person responsible for a child's welfare" means:

(a) the child's parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child's welfare in a residential setting.

(3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) "Adequate health care" means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) "Best interests of the child" means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) "Child" or "youth" means any person under 18 years of age.

(7) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare;

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(C) any form of child sex trafficking or human trafficking.

(ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as "serious emotional or physical damage to the child" as used in 25 U.S.C. 1912(f).

(d) The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child.

(8) "Child protection specialist" means an employee of the department who investigates allegations of child abuse, neglect, and endangerment and has been certified pursuant to [section ~~3~~ 1].

~~(8)~~(9) "Concurrent planning" means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

~~(9)~~(10) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(10)~~(11) "Family group decisionmaking meeting" means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

~~(11)~~(12) "Indian child" means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

~~(12)~~(13) "Indian child's tribe" means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

~~(13)~~(14) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child's parent.

~~(14)~~(15) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group's status as Indians, including any Alaskan native village as defined in federal law.

~~(15)~~(16) "Limited emancipation" means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

~~(16)~~(17) "Parent" means a biological or adoptive parent or stepparent.

~~(17)~~(18) "Parent-child legal relationship" means the legal relationship that exists between a child and the child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

~~(18)~~(19) "Permanent placement" means reunification of the child with the child's parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

~~(19)~~(20) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

~~(20)~~(21) "Physical neglect" means either failure to provide basic necessities, including but not limited to

appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.

~~(21)~~(22) (a) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or other person responsible for the child's welfare:

(i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;

(ii) commits or allows sexual abuse or exploitation of the child;

(iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child's welfare;

(iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;

(v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or

(vi) abandons the child.

(b) The term does not include a youth not receiving supervision solely because of parental inability to control the youth's behavior.

~~(22)~~(23) (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, voluntary protective services provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

~~(23)~~(24) (a) "Psychological abuse or neglect" means severe maltreatment through acts or omissions

that are injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child's home.

(b) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

~~(24)~~(25) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

~~(25)~~(26) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

~~(26)~~(27) "Residential setting" means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

~~(27)~~(28) "Safety and risk assessment" means an evaluation by a ~~social worker~~ child protection specialist following an initial report of child abuse or neglect to assess the following:

(a) the existing threat or threats to the child's safety;

(b) the protective capabilities of the parent or guardian;

(c) any particular vulnerabilities of the child;

(d) any interventions required to protect the child; and

(e) the likelihood of future physical or psychological harm to the child.

~~(28)~~(29) (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a

minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child's welfare.

~~(29)~~(30) "Sexual exploitation" means:

(a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601 through 45-5-603;

(b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or

(c) allowing, permitting, or encouraging sexual servitude as described in 45-5-704 or 45-5-705.

~~(30) (a) "Social worker" means an employee of the department who, before the employee's field assignment, has been educated or trained in a program of social work or a related field that includes cognitive and family systems treatment or who has equivalent verified experience or verified training in the investigation of child abuse, neglect, and endangerment.~~

~~(b) This definition does not apply to any provision of this code that is not in this chapter.~~

(31) "Treatment plan" means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(32) (a) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (32), "infant" means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(33) "Youth in need of care" means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned."

Section 6. Section 41-3-108, MCA, is amended to read:

"**41-3-108. Child protective teams.** The county attorney, county commissioners, guardian ad litem, or department may convene one or more temporary or permanent interdisciplinary child protective teams. These teams may assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to the child and the child's family. The supervisor of child protective services in a local service area or the supervisor's designee shall serve as the team's coordinator. Members must include:

(1) a ~~social worker~~ child protection specialist;

(2) a member of a local law enforcement agency;

(3) a representative of the medical profession;

(4) a representative of a public school system;

(5) a county attorney; and

(6) if an Indian child or children are involved, someone, preferably an Indian person, knowledgeable about Indian culture and family matters."

Section 7. Section 41-3-201, MCA, is amended to read:

"**41-3-201. Reports.** (1) When the professionals and officials listed in subsection (2) know or have

reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:

(a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;

(c) religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a social worker licensed pursuant to Title 37, child protection specialist, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;

(f) a foster care, residential, or institutional worker;

(g) a peace officer or other law enforcement official;

(h) a member of the clergy, as defined in 15-6-201(2)(b);

(i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect;

(j) an employee of an entity that contracts with the department to provide direct services to children; and

(k) an employee of the department while in conduct of the employee's duties.

(3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.

(4) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.

(5) (a) When a professional or official required to report under subsection (2) makes a report, the department may share information with:

(i) that professional or official;

(ii) other individuals with whom the professional or official works in an official capacity if the individuals are part of a team that responds to matters involving the child or the person about whom the report was made and the professional or official has asked that the information be shared with the individuals; or

(iii) the child abuse and neglect review commission established in 2-15-2019.

(b) The department may provide information in accordance with 41-3-202(8) and also share information about the investigation, limited to its outcome and any subsequent action that will be taken on behalf of the child who is the subject of the report.

(c) Individuals who receive information pursuant to this subsection (5) shall maintain the confidentiality of the information as required by 41-3-205.

(6) (a) Except as provided in subsection (6)(b) or (6)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

(b) A member of the clergy or a priest is not required to make a report under this section if:

(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;

(ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and

(iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.

(c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

(7) The reports referred to under this section must contain:

(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;

(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible for the injury or neglect; and

(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter. (Subsection (5)(a)(iii) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 8. Section 41-3-202, MCA, is amended to read:

"**41-3-202. Action on reporting.** (1) (a) Upon receipt of a report that a child is or has been abused or neglected, the department shall promptly assess the information contained in the report and make a determination regarding the level of response required and the timeframe within which action must be initiated.

(b) (i) Except as provided in subsection (1)(b)(ii), upon receipt of a report that includes an allegation of sexual abuse or sexual exploitation or if the department determines during any investigation that the circumstances surrounding an allegation of child abuse or neglect include an allegation of sexual abuse or sexual exploitation, the department shall immediately report the allegation to the county attorney of the county in which the acts that are the subject of the report occurred.

(ii) If a victim of sexual abuse or sexual exploitation has attained the age of 14 and has sought services from a contractor as described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault, conditioned upon an understanding that the criminal conduct will not be reported by the department to the county attorney in the jurisdiction in which the alleged crime occurred, the department may not report pursuant to 41-3-205(5)(d) and subsection (1)(b)(i) of this section.

(c) If the department determines that an investigation and a safety and risk assessment are required, a ~~social worker~~ child protection specialist shall promptly conduct a thorough investigation into the circumstances surrounding the allegations of abuse or neglect of the child and perform a safety and risk assessment to determine whether the living arrangement presents an unsafe environment for the child. The safety and risk assessment may include an investigation at the home of the child involved, the child's school or day-care facility, or any other place where the child is present and into all other nonfinancial matters that in the discretion of the investigator are relevant to the safety and risk assessment. In conducting a safety and risk

assessment under this section, a ~~social worker~~ child protection specialist may not inquire into the financial status of the child's family or of any other person responsible for the child's care, except as necessary to ascertain eligibility for state or federal assistance programs or to comply with the provisions of 41-3-446.

(2) An initial investigation of alleged abuse or neglect may be conducted when an anonymous report is received. However, if the initial investigation does not within 48 hours result in the development of independent, corroborative, and attributable information indicating that there exists a current risk of physical or psychological harm to the child, a child may not be removed from the living arrangement. If independent, corroborative, and attributable information indicating an ongoing risk results from the initial investigation, the department shall then conduct a safety and risk assessment.

(3) The ~~social worker~~ child protection specialist is responsible for conducting the safety and risk assessment. If the child is treated at a medical facility, the ~~social worker~~ child protection specialist, county attorney, or peace officer, consistent with reasonable medical practice, has the right of access to the child for interviews, photographs, and securing physical evidence and has the right of access to relevant hospital and medical records pertaining to the child. If an interview of the child is considered necessary, the ~~social worker~~ child protection specialist, county attorney, or peace officer may conduct an interview of the child. The interview may be conducted in the presence of the parent or guardian or an employee of the school or day-care facility attended by the child.

(4) Subject to 41-3-205(3), if the child's interview is audiotaped or videotaped, an unedited audiotape or videotape with audio track must be made available, upon request, for unencumbered review by the family.

(5) (a) If from the safety and risk assessment the department has reasonable cause to suspect that the child is suffering abuse or neglect, the department may provide emergency protective services to the child, pursuant to 41-3-301, or voluntary protective services pursuant to 41-3-302, and may provide protective services to any other child under the same care. The department shall:

(i) after interviewing the parent or guardian, if reasonably available, document the determinations of the safety and risk assessment; and

(ii) notify the child's family of the determinations of the safety and risk assessment, unless the notification can reasonably be expected to result in harm to the child or other person.

(b) Except as provided in subsection (5)(c), the department shall destroy all safety and risk

assessment determinations and associated records, except for medical records, within 30 days after the end of the 3-year period starting from the date of completion of the safety and risk assessment.

(c) Safety and risk assessment determinations and associated records may be maintained for a reasonable time as defined by department rule under the following circumstances:

(i) the safety and risk assessment determines that abuse or neglect occurred;

(ii) there had been a previous or there is a subsequent report and investigation resulting in a safety and risk assessment concerning the same person; or

(iii) an order has been issued by a court of competent jurisdiction adjudicating the child as a youth in need of care based on the circumstances surrounding the initial allegations.

(6) The investigating ~~social worker~~ child protection specialist, within 60 days of commencing an investigation, shall also furnish a written safety and risk assessment to the department and, upon request, to the family. Subject to time periods set forth in subsections (5)(b) and (5)(c), the department shall maintain a record system documenting investigations and safety and risk assessment determinations. Unless records are required to be destroyed under subsections (5)(b) and (5)(c), the department shall retain records relating to the safety and risk assessment, including case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

(7) Any person reporting abuse or neglect that involves acts or omissions on the part of a public or private residential institution, home, facility, or agency is responsible for ensuring that the report is made to the department.

(8) The department shall, upon request from any reporter of alleged child abuse or neglect, verify whether the report has been received, describe the level of response and timeframe for action that the department has assigned to the report, and confirm that it is being acted upon."

Section 9. Section 41-3-205, MCA, is amended to read:

"**41-3-205. Confidentiality -- disclosure exceptions.** (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or

knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the

relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department[, including the child abuse and neglect review commission established in 2-15-2019];

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

(p) the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a ~~social worker~~ child protection specialist, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county or regional interdisciplinary child information and school safety team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) (a) The records described in subsection (3) must be disclosed to a member of the United States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United States or the state of Montana that protect children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the department in locating the records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records.

(b) Records disclosed pursuant to subsection (4)(a) are confidential, must be made available for the member to view but may not be copied, recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's possession. The member must be allowed to view the records in the

local office where the case is or was active.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

(i) the attorney general;

(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;

(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or

(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502; or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to

inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a) and (5). However, this subsection may not be construed to compel a family member to keep

the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or guardian's attorney must be provided without cost. (Bracketed language in subsection (3)(m) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 10. Section 41-3-301, MCA, is amended to read:

"**41-3-301. Emergency protective service.** (1) Any child ~~protective social worker~~ protection specialist of the department, a peace officer, or the county attorney who has reason to believe any child is in immediate or apparent danger of harm may immediately remove the child and place the child in a protective facility. After ensuring that the child is safe, the department may make a request for further assistance from the law enforcement agency or take appropriate legal action. The person or agency placing the child shall notify the parents, parent, guardian, or other person having physical or legal custody of the child of the placement at the time the placement is made or as soon after placement as possible. Notification under this subsection must include the reason for removal, information regarding the show cause hearing, and the purpose of the show cause hearing and must advise the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person may have a support person present during any in-person meeting with the ~~social worker~~ child protection specialist concerning emergency protective services.

(2) If a ~~social worker of the department~~ child protection specialist, a peace officer, or the county attorney determines in an investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or family member assault, as provided for in 45-5-206, or strangulation of a partner or family member, as provided for in 45-5-215, against an adult member of the household or that the child needs

protection as a result of the occurrence of partner or family member assault or strangulation of a partner or family member against an adult member of the household, the department shall take appropriate steps for the protection of the child, which may include:

(a) making reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is a victim of alleged partner or family member assault or strangulation of a partner or family member;

(b) making reasonable efforts to remove the person who allegedly committed the partner or family member assault or strangulation of a partner or family member from the child's residence if it is determined that the child or another family or household member is in danger of partner or family member assault or strangulation of a partner or family member; and

(c) providing services to help protect the child from being placed with or having unsupervised visitation with the person alleged to have committed partner or family member assault or strangulation of a partner or family member until the department determines that the alleged offender has met conditions considered necessary to protect the safety of the child.

(3) If the department determines that an adult member of the household is the victim of partner or family member assault or strangulation of a partner or family member, the department shall provide the adult victim with a referral to a domestic violence program.

(4) A child who has been removed from the child's home or any other place for the child's protection or care may not be placed in a jail.

(5) The department may locate and contact extended family members upon placement of a child in out-of-home care. The department may share information with extended family members for placement and case planning purposes.

(6) If a child is removed from the child's home by the department, a child ~~protective social worker~~ protection specialist shall submit an affidavit regarding the circumstances of the emergency removal to the county attorney and provide a copy of the affidavit to the parents or guardian, if possible, within 2 working days of the emergency removal. An abuse and neglect petition must be filed within 5 working days, excluding weekends and holidays, of the emergency removal of a child unless arrangements acceptable to the agency for the care of the child have been made by the parents or voluntary protective services are provided pursuant to

41-3-302.

(7) Except as provided in the federal Indian Child Welfare Act, if applicable, a show cause hearing must be held within 20 days of the filing of the petition unless otherwise stipulated by the parties pursuant to 41-3-434.

(8) If the department determines that a petition for immediate protection and emergency protective services must be filed to protect the safety of the child, the ~~social worker~~ child protection specialist shall interview the parents of the child to whom the petition pertains, if the parents are reasonably available, before the petition may be filed. The district court may immediately issue an order for immediate protection of the child.

(9) The department shall make the necessary arrangements for the child's well-being as are required prior to the court hearing."

Section 11. Section 41-3-427, MCA, is amended to read:

"**41-3-427. Petition for immediate protection and emergency protective services -- order -- service.** (1) (a) In a case in which it appears that a child is abused or neglected or is in danger of being abused or neglected, the county attorney, the attorney general, or an attorney hired by the county may file a petition for immediate protection and emergency protective services. In implementing the policy of this section, the child's health and safety are of paramount concern.

(b) A petition for immediate protection and emergency protective services must state the specific authority requested and must be supported by an affidavit signed by a representative of the department stating in detail the alleged facts upon which the request is based and the facts establishing probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence that a child is abused or neglected or is in danger of being abused or neglected. The affidavit of the department representative must contain information, if any, regarding statements made by the parents about the facts of the case.

(c) If from the alleged facts presented in the affidavit it appears to the court that there is probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence to believe that the child has been abused or neglected or is in danger of being abused and neglected, the judge shall grant emergency protective services and the relief authorized by subsection (2) until the adjudication hearing or the temporary investigative hearing. If it appears from the alleged facts contained in the affidavit that there is

insufficient probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence to believe that the child has been abused or neglected or is in danger of being abused or neglected, the court shall dismiss the petition.

(d) If the parents, parent, guardian, person having physical or legal custody of the child, or attorney for the child disputes the material issues of fact contained in the affidavit or the veracity of the affidavit, the person may request a contested show cause hearing pursuant to 41-3-432 within 10 days following service of the petition and affidavit.

(e) The petition for immediate protection and emergency protective services must include a notice advising the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person having physical or legal custody of the child may have a support person present during any in-person meeting with a ~~social worker~~ child protection specialist concerning emergency protective services. Reasonable accommodation must be made in scheduling an in-person meeting with the ~~social worker~~ child protection specialist.

(2) Pursuant to subsection (1), if the court finds probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence based on the petition and affidavit, the court may issue an order for immediate protection of the child. The court shall consider the parents' statements, if any, included with the petition and any accompanying affidavit or report to the court. If the court finds probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence, the court may issue an order granting the following forms of relief, which do not constitute a court-ordered treatment plan under 41-3-443:

(a) the right of entry by a peace officer or department worker;

(b) the right to place the child in temporary medical or out-of-home care, including but not limited to care provided by a noncustodial parent, kinship or foster family, group home, or institution;

(c) the right of the department to locate, contact, and share information with any extended family members who may be considered as placement options for the child;

(d) a requirement that the parents, guardian, or other person having physical or legal custody furnish information that the court may designate and obtain evaluations that may be necessary to determine whether a child is a youth in need of care;

(e) a requirement that the perpetrator of the alleged child abuse or neglect be removed from the home to allow the child to remain in the home;

(f) a requirement that the parent provide the department with the name and address of the other parent, if known, unless parental rights to the child have been terminated;

(g) a requirement that the parent provide the department with the names and addresses of extended family members who may be considered as placement options for the child who is the subject of the proceeding; and

(h) any other temporary disposition that may be required in the best interests of the child that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditure is reasonable and that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

(3) An order for removal of a child from the home must include a finding that continued residence of the child with the parent is contrary to the welfare of the child or that an out-of-home placement is in the best interests of the child.

(4) The order for immediate protection of the child must require the person served to comply immediately with the terms of the order and to appear before the court issuing the order on the date specified for a show cause hearing. Upon a failure to comply or show cause, the court may hold the person in contempt or place temporary physical custody of the child with the department until further order.

(5) The petition must be served as provided in 41-3-422."

Section 12. Section 41-3-445, MCA, is amended to read:

"**41-3-445. Permanency hearing.** (1) (a) (i) Subject to subsection (1)(b), a permanency hearing must be held by the court or, subject to the approval of the court and absent an objection by a party to the proceeding, by the foster care review committee, as provided in 41-3-115, or the citizen review board, as provided in 41-3-1010:

(A) within 30 days of a determination that reasonable efforts to provide preservation or reunification services are not necessary under 41-3-423, 41-3-438(6), or 41-3-442(1); or

(B) no later than 12 months after the initial court finding that the child has been subjected to abuse or

neglect or 12 months after the child's first 60 days of removal from the home, whichever comes first.

(ii) Within 12 months of a hearing under subsection (1)(a)(i)(B) and every 12 months thereafter until the child is permanently placed in either an adoptive or a guardianship placement, the court or the court-approved entity holding the permanency hearing shall conduct a hearing and the court shall issue a finding as to whether the department has made reasonable efforts to finalize the permanency plan for the child.

(b) A permanency hearing is not required if the proceeding has been dismissed, the child was not removed from the home, the child has been returned to the child's parent or guardian, or the child has been legally adopted or appointed a legal guardian.

(c) The permanency hearing may be combined with a hearing that is required in other sections of this part or with a review held pursuant to 41-3-115 or 41-3-1010 if held within the applicable time limits. If a permanency hearing is combined with another hearing or a review, the requirements of the court related to the disposition of the other hearing or review must be met in addition to the requirements of this section.

(d) The court-approved entity conducting the permanency hearing may elect to hold joint or separate reviews for groups of siblings, but the court shall issue specific findings for each child.

(2) At least 3 working days prior to the permanency hearing, the department shall submit a report regarding the child to the entity that will be conducting the hearing for review. The report must address the department's efforts to effectuate the permanency plan for the child, address the options for the child's permanent placement, examine the reasons for excluding higher priority options, and set forth the proposed plan to carry out the placement decision, including specific times for achieving the plan.

(3) At least 3 working days prior to the permanency hearing, the guardian ad litem or an attorney or advocate for a parent or guardian may submit an informational report to the entity that will be conducting the hearing for review.

(4) In a permanency hearing, the court or other entity conducting the hearing shall consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.

(5) (a) The court's order must be issued within 20 days after the permanency hearing if the hearing was conducted by the court. If a member of the child's extended family, including an adult sibling, grandparent, great-grandparent, aunt, or uncle, has requested that custody be awarded to that family member or that a prior grant of temporary custody with that family member be made permanent, the department shall investigate and

determine if awarding custody to that family member is in the best interests of the child. The department shall provide the reasons for any denial to the court. If the court accepts the department's custody recommendation, the court shall inform any denied family member of the reasons for the denial to the extent that confidentiality laws allow. The court shall include the reasons for denial in the court order if the family member who is denied custody requests it to be included.

(b) If an entity other than the court conducts the hearing, the entity shall keep minutes of the hearing and the minutes and written recommendations must be provided to the court within 20 days of the hearing.

(c) If an entity other than the court conducts the hearing and the court concurs with the recommendations, the court may adopt the recommendations as findings with no additional hearing required. In this case, the court shall issue written findings within 10 days of receipt of the written recommendations.

(6) The court shall approve a specific permanency plan for the child and make written findings on:

(a) whether the child has been asked about the desired permanency outcome;

(b) whether the permanency plan is in the best interests of the child;

(c) whether the department has made reasonable efforts to effectuate the permanency plan for the individual child;

(d) whether the department has made reasonable efforts to finalize the plan;

(e) whether there are compelling reasons why it is not in the best interest of the individual child to:

(i) return to the child's home; or

(ii) be placed for adoption, with a legal guardian, or with a fit and willing relative; and

(f) other necessary steps that the department is required to take to effectuate the terms of the plan.

(7) In its discretion, the court may enter any other order that it determines to be in the best interests of the child that does not conflict with the options provided in subsection (8) and that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditures are reasonable and that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

(8) Permanency options include:

(a) reunification of the child with the child's parent or guardian;

(b) permanent placement of the child with the noncustodial parent, superseding any existing custodial

order;

(c) adoption;

(d) appointment of a guardian pursuant to 41-3-444; or

(e) long-term custody if the child is in a planned permanent living arrangement and if it is established by a preponderance of the evidence, which is reflected in specific findings by the court, that:

(i) the child is being cared for by a fit and willing relative;

(ii) the child has an emotional or mental handicap that is so severe that the child cannot function in a family setting and the best interests of the child are served by placement in a residential or group setting;

(iii) the child is at least 16 years of age and is participating in an independent living program and that termination of parental rights is not in the best interests of the child;

(iv) the child's parent is incarcerated and circumstances, including placement of the child and continued, frequent contact with the parent, indicate that it would not be in the best interests of the child to terminate parental rights of that parent; or

(v) the child meets the following criteria:

(A) the child has been adjudicated a youth in need of care;

(B) the department has made reasonable efforts to reunite the parent and child, further efforts by the department would likely be unproductive, and reunification of the child with the parent or guardian would be contrary to the best interests of the child;

(C) there is a judicial finding that other more permanent placement options for the child have been considered and found to be inappropriate or not to be in the best interests of the child; and

(D) the child has been in a placement in which the foster parent or relative has committed to the long-term care and to a relationship with the child, and it is in the best interests of the child to remain in that placement.

(9) For a child 14 years of age or older, the permanency plan must:

(a) be developed in consultation with the child and in consultation with up to two members of the child's case planning team who are chosen by the child and who are not a foster parent or ~~social worker~~ child protection specialist for the child;

(b) identify one person from the case management team, who is selected by the child, to be

designated as the child's advisor and advocate for the application of the reasonable and prudent parenting standard; and

(c) include services that will be needed to transition the child from foster care to adulthood.

(10) A permanency hearing must document the intensive, ongoing, and unsuccessful efforts made by the department to return the child to the child's home or to secure a permanent placement of the child with a relative, legal guardian, or adoptive parent.

(11) The court may terminate a planned permanent living arrangement upon petition of the birth parents or the department if the court finds that the circumstances of the child or family have substantially changed and the best interests of the child are no longer being served."

NEW SECTION. **Section 13. Codification instruction.** ~~(1)~~ [Sections 1 through ~~5~~ 4] are intended to be codified as ~~a new chapter in Title 37, and the provisions of Title 37 apply to [sections 1 through 5].~~

~~(2) [Section 6] is intended to be codified as~~ an integral part of Title ~~40~~ 41, chapter 3, part 1, and the provisions of Title ~~40~~ 41, chapter 3, part 1, apply to [~~section 6~~ SECTIONS 1 THROUGH 4].

- END -

AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR CERTIFICATION OF CHILD PROTECTION SPECIALISTS INVESTIGATING MATTERS OF SUSPECTED CHILD ABUSE, NEGLECT, OR ENDANGERMENT; PROVIDING IMPLEMENTATION INSTRUCTIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 41-3-102, 41-3-108, 41-3-201, 41-3-202, 41-3-205, 41-3-301, 41-3-427, AND 41-3-445, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Certificate requirements -- supervision -- fees. (1) An applicant for certification as a child protection specialist shall:

(a) successfully complete a course in child protection, as defined by the department by rule, which must include training in:

(i) ethics;

(ii) governing statutory and regulatory framework;

(iii) role of law enforcement;

(iv) crisis intervention techniques;

(v) childhood trauma research;

(vi) evidence-based practices for family preservation and strengthening; and

(vii) the provisions of the Indian Child Welfare Act, 25 U.S.C. 1902, et seq.; and

(b) demonstrate the applicant's ability to perform all essential functions of the certified child protection role by earning a passing score on a competency examination developed pursuant to [section 4].

(2) As a prerequisite to the issuance of a certificate, the department shall require the applicant to submit fingerprints for the purpose of fingerprint background checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(3) An applicant who has a history of criminal convictions has the opportunity to demonstrate to the

department that the applicant is sufficiently rehabilitated to warrant the public trust. The department may deny the certificate if it determines that the applicant is not sufficiently rehabilitated.

Section 2. Certificate renewal -- continuing education. (1) A certified child protection specialist shall renew the specialist's certification annually using a process specified by department rule, which must include proof of completion of at least 20 hours of continuing education developed or approved by the department.

(2) The continuing education may include any topic listed in subsection (1) of [section 2] and must include at least one unit focused on:

(a) ethics; and

(b) recent developments in governing law or rule.

Section 3. Implementation of certification requirement for child protection specialists. (1) (a) The department shall engage and collaborate with an external organization to develop a child welfare certification and training program, including a competency examination, that must be an ongoing component of the department's child welfare work.

(b) The program and examination must be reevaluated every 2 years to ensure that they:

(i) reflect current trends, research, and developments in the law; and

(ii) promote evidence-based or evidence-informed practices.

(2) A person hired by the department for a child-facing position after [the effective date of this act] shall become a certified child protection specialist pursuant to [sections 1 through 4] within 1 year of the date of hire.

(3) A person already employed by the department in a child-facing position before [the effective date of this act] shall obtain child protection specialist certification pursuant to [sections 1 through 4] by October 1, 2023.

(4) For the purpose of this section, "child-facing position" means an employee role under this chapter that involves regular interaction with minors, including but not limited to investigating reports of child abuse, neglect, or endangerment.

Section 4. Section 41-3-102, MCA, is amended to read:

"**41-3-102. Definitions.** As used in this chapter, the following definitions apply:

(1) (a) "Abandon", "abandoned", and "abandonment" mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) "A person responsible for a child's welfare" means:

(a) the child's parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child's welfare in a residential setting.

(3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) "Adequate health care" means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the

sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) "Best interests of the child" means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) "Child" or "youth" means any person under 18 years of age.

(7) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare;

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(C) any form of child sex trafficking or human trafficking.

(ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as "serious emotional or physical damage to the child" as used in 25 U.S.C. 1912(f).

(d) The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child.

(8) "Child protection specialist" means an employee of the department who investigates allegations of child abuse, neglect, and endangerment and has been certified pursuant to [section 1].

~~(8)~~(9) "Concurrent planning" means to work toward reunification of the child with the family while at

the same time developing and implementing an alternative permanent plan.

~~(9)~~(10) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(10)~~(11) "Family group decisionmaking meeting" means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

~~(11)~~(12) "Indian child" means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

~~(12)~~(13) "Indian child's tribe" means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

~~(13)~~(14) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child's parent.

~~(14)~~(15) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group's status as Indians, including any Alaskan native village as defined in federal law.

~~(15)~~(16) "Limited emancipation" means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

~~(16)~~(17) "Parent" means a biological or adoptive parent or stepparent.

~~(17)~~(18) "Parent-child legal relationship" means the legal relationship that exists between a child and the child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

~~(18)~~(19) "Permanent placement" means reunification of the child with the child's parent, adoption,

placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

~~(19)~~(20) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

~~(20)~~(21) "Physical neglect" means either failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.

~~(21)~~(22) (a) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or other person responsible for the child's welfare:

(i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;

(ii) commits or allows sexual abuse or exploitation of the child;

(iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child's welfare;

(iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;

(v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or

(vi) abandons the child.

(b) The term does not include a youth not receiving supervision solely because of parental inability to control the youth's behavior.

~~(22)~~(23) (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home

to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, voluntary protective services provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

~~(23)~~(24) (a) "Psychological abuse or neglect" means severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child's home.

(b) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

~~(24)~~(25) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

~~(25)~~(26) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

~~(26)~~(27) "Residential setting" means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

~~(27)~~(28) "Safety and risk assessment" means an evaluation by a ~~social worker~~ child protection specialist following an initial report of child abuse or neglect to assess the following:

(a) the existing threat or threats to the child's safety;

(b) the protective capabilities of the parent or guardian;

(c) any particular vulnerabilities of the child;

(d) any interventions required to protect the child; and

(e) the likelihood of future physical or psychological harm to the child.

~~(28)~~(29) (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child's welfare.

~~(29)~~(30) "Sexual exploitation" means:

(a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601 through 45-5-603;

(b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or

(c) allowing, permitting, or encouraging sexual servitude as described in 45-5-704 or 45-5-705.

~~(30) (a) "Social worker" means an employee of the department who, before the employee's field assignment, has been educated or trained in a program of social work or a related field that includes cognitive and family systems treatment or who has equivalent verified experience or verified training in the investigation of child abuse, neglect, and endangerment.~~

~~(b) This definition does not apply to any provision of this code that is not in this chapter.~~

(31) "Treatment plan" means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(32) (a) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in

ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (32), "infant" means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(33) "Youth in need of care" means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned."

Section 5. Section 41-3-108, MCA, is amended to read:

"**41-3-108. Child protective teams.** The county attorney, county commissioners, guardian ad litem, or department may convene one or more temporary or permanent interdisciplinary child protective teams. These teams may assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to the child and the child's family. The supervisor of child protective services in a local service area or the supervisor's designee shall serve as the team's coordinator. Members must include:

(1) a ~~social worker~~ child protection specialist;

(2) a member of a local law enforcement agency;

(3) a representative of the medical profession;

(4) a representative of a public school system;

(5) a county attorney; and

(6) if an Indian child or children are involved, someone, preferably an Indian person, knowledgeable about Indian culture and family matters."

Section 6. Section 41-3-201, MCA, is amended to read:

"**41-3-201. Reports.** (1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:

(a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;

(c) religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a social worker <u>licensed pursuant to Title 37</u>, <u>child protection specialist,</u> operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;

(f) a foster care, residential, or institutional worker;

(g) a peace officer or other law enforcement official;

(h) a member of the clergy, as defined in 15-6-201(2)(b);

(i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect;

(j) an employee of an entity that contracts with the department to provide direct services to children;

and

(k) an employee of the department while in conduct of the employee's duties.

(3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.

(4) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.

(5) (a) When a professional or official required to report under subsection (2) makes a report, the department may share information with:

(i) that professional or official;

(ii) other individuals with whom the professional or official works in an official capacity if the individuals are part of a team that responds to matters involving the child or the person about whom the report was made and the professional or official has asked that the information be shared with the individuals; or

(iii) the child abuse and neglect review commission established in 2-15-2019.

(b) The department may provide information in accordance with 41-3-202(8) and also share information about the investigation, limited to its outcome and any subsequent action that will be taken on behalf of the child who is the subject of the report.

(c) Individuals who receive information pursuant to this subsection (5) shall maintain the confidentiality of the information as required by 41-3-205.

(6) (a) Except as provided in subsection (6)(b) or (6)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

(b) A member of the clergy or a priest is not required to make a report under this section if:

(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;

(ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and

(iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.

(c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

(7) The reports referred to under this section must contain:

(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;

(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible for the injury or neglect; and

(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter. (Subsection (5)(a)(iii) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 7. Section 41-3-202, MCA, is amended to read:

"**41-3-202. Action on reporting.** (1) (a) Upon receipt of a report that a child is or has been abused or neglected, the department shall promptly assess the information contained in the report and make a determination regarding the level of response required and the timeframe within which action must be initiated.

(b) (i) Except as provided in subsection (1)(b)(ii), upon receipt of a report that includes an allegation of sexual abuse or sexual exploitation or if the department determines during any investigation that the circumstances surrounding an allegation of child abuse or neglect include an allegation of sexual abuse or sexual exploitation, the department shall immediately report the allegation to the county attorney of the county in which the acts that are the subject of the report occurred.

(ii) If a victim of sexual abuse or sexual exploitation has attained the age of 14 and has sought services from a contractor as described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault, conditioned upon an understanding that the criminal conduct will not be reported by the department to the county attorney in the jurisdiction in which the alleged crime occurred, the department may not report pursuant to 41-3-205(5)(d) and subsection (1)(b)(i) of this section.

(c) If the department determines that an investigation and a safety and risk assessment are required, a ~~social worker~~ child protection specialist shall promptly conduct a thorough investigation into the circumstances surrounding the allegations of abuse or neglect of the child and perform a safety and risk assessment to determine whether the living arrangement presents an unsafe environment for the child. The safety and risk assessment may include an investigation at the home of the child involved, the child's school or day-care facility, or any other place where the child is present and into all other nonfinancial matters that in the discretion of the investigator are relevant to the safety and risk assessment. In conducting a safety and risk assessment under this section, a ~~social worker~~ child protection specialist may not inquire into the financial status of the child's family or of any other person responsible for the child's care, except as necessary to ascertain eligibility for state or federal assistance programs or to comply with the provisions of 41-3-446.

(2) An initial investigation of alleged abuse or neglect may be conducted when an anonymous report is received. However, if the initial investigation does not within 48 hours result in the development of independent, corroborative, and attributable information indicating that there exists a current risk of physical or psychological harm to the child, a child may not be removed from the living arrangement. If independent, corroborative, and attributable information indicating an ongoing risk results from the initial investigation, the department shall then conduct a safety and risk assessment.

(3) The ~~social worker~~ child protection specialist is responsible for conducting the safety and risk assessment. If the child is treated at a medical facility, the ~~social worker~~ child protection specialist, county attorney, or peace officer, consistent with reasonable medical practice, has the right of access to the child for interviews, photographs, and securing physical evidence and has the right of access to relevant hospital and medical records pertaining to the child. If an interview of the child is considered necessary, the ~~social worker~~ child protection specialist, county attorney, or peace officer may conduct an interview of the child. The interview may be conducted in the presence of the parent or guardian or an employee of the school or day-care facility attended by the child.

(4) Subject to 41-3-205(3), if the child's interview is audiotaped or videotaped, an unedited audiotape or videotape with audio track must be made available, upon request, for unencumbered review by the family.

(5) (a) If from the safety and risk assessment the department has reasonable cause to suspect that the child is suffering abuse or neglect, the department may provide emergency protective services to the child,

pursuant to 41-3-301, or voluntary protective services pursuant to 41-3-302, and may provide protective services to any other child under the same care. The department shall:

(i) after interviewing the parent or guardian, if reasonably available, document the determinations of the safety and risk assessment; and

(ii) notify the child's family of the determinations of the safety and risk assessment, unless the notification can reasonably be expected to result in harm to the child or other person.

(b) Except as provided in subsection (5)(c), the department shall destroy all safety and risk assessment determinations and associated records, except for medical records, within 30 days after the end of the 3-year period starting from the date of completion of the safety and risk assessment.

(c) Safety and risk assessment determinations and associated records may be maintained for a reasonable time as defined by department rule under the following circumstances:

(i) the safety and risk assessment determines that abuse or neglect occurred;

(ii) there had been a previous or there is a subsequent report and investigation resulting in a safety and risk assessment concerning the same person; or

(iii) an order has been issued by a court of competent jurisdiction adjudicating the child as a youth in need of care based on the circumstances surrounding the initial allegations.

(6) The investigating ~~social worker~~ child protection specialist, within 60 days of commencing an investigation, shall also furnish a written safety and risk assessment to the department and, upon request, to the family. Subject to time periods set forth in subsections (5)(b) and (5)(c), the department shall maintain a record system documenting investigations and safety and risk assessment determinations. Unless records are required to be destroyed under subsections (5)(b) and (5)(c), the department shall retain records relating to the safety and risk assessment, including case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

(7) Any person reporting abuse or neglect that involves acts or omissions on the part of a public or private residential institution, home, facility, or agency is responsible for ensuring that the report is made to the department.

(8) The department shall, upon request from any reporter of alleged child abuse or neglect, verify whether the report has been received, describe the level of response and timeframe for action that the

department has assigned to the report, and confirm that it is being acted upon."

Section 8. Section 41-3-205, MCA, is amended to read:

"**41-3-205. Confidentiality -- disclosure exceptions.** (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person

who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department[, including the child abuse and neglect review commission established in 2-15-2019];

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children posed by the person about whom the information is sought, as determined by the department.

(p) the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or

guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a ~~social worker~~ child protection specialist, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county or regional interdisciplinary child information and school safety team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) (a) The records described in subsection (3) must be disclosed to a member of the United States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United States or the state of Montana that protect children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the department in locating the records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records.

(b) Records disclosed pursuant to subsection (4)(a) are confidential, must be made available for the member to view but may not be copied, recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's possession. The member must be allowed to view the records in the local office where the case is or was active.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

(i) the attorney general;

(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;

(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or

(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502; or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual

described in subsection (5)(a) or to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county or regional interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the

consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a) and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or guardian's attorney must be provided without cost. (Bracketed language in subsection (3)(m) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 9. Section 41-3-301, MCA, is amended to read:

"**41-3-301. Emergency protective service.** (1) Any child ~~protective social worker~~ protection specialist of the department, a peace officer, or the county attorney who has reason to believe any child is in immediate or apparent danger of harm may immediately remove the child and place the child in a protective facility. After ensuring that the child is safe, the department may make a request for further assistance from the law enforcement agency or take appropriate legal action. The person or agency placing the child shall notify the parents, parent, guardian, or other person having physical or legal custody of the child of the placement at the time the placement is made or as soon after placement as possible. Notification under this subsection must include the reason for removal, information regarding the show cause hearing, and the purpose of the show

cause hearing and must advise the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person may have a support person present during any in-person meeting with the ~~social worker~~ child protection specialist concerning emergency protective services.

(2) If a ~~social worker of the department~~ child protection specialist, a peace officer, or the county attorney determines in an investigation of abuse or neglect of a child that the child is in danger because of the occurrence of partner or family member assault, as provided for in 45-5-206, or strangulation of a partner or family member, as provided for in 45-5-215, against an adult member of the household or that the child needs protection as a result of the occurrence of partner or family member assault or strangulation of a partner or family member against an adult member of the household, the department shall take appropriate steps for the protection of the child, which may include:

(a) making reasonable efforts to protect the child and prevent the removal of the child from the parent or guardian who is a victim of alleged partner or family member assault or strangulation of a partner or family member;

(b) making reasonable efforts to remove the person who allegedly committed the partner or family member assault or strangulation of a partner or family member from the child's residence if it is determined that the child or another family or household member is in danger of partner or family member assault or strangulation of a partner or family member; and

(c) providing services to help protect the child from being placed with or having unsupervised visitation with the person alleged to have committed partner or family member assault or strangulation of a partner or family member until the department determines that the alleged offender has met conditions considered necessary to protect the safety of the child.

(3) If the department determines that an adult member of the household is the victim of partner or family member assault or strangulation of a partner or family member, the department shall provide the adult victim with a referral to a domestic violence program.

(4) A child who has been removed from the child's home or any other place for the child's protection or care may not be placed in a jail.

(5) The department may locate and contact extended family members upon placement of a child in out-of-home care. The department may share information with extended family members for placement and

case planning purposes.

(6) If a child is removed from the child's home by the department, a child ~~protective social worker~~ protection specialist shall submit an affidavit regarding the circumstances of the emergency removal to the county attorney and provide a copy of the affidavit to the parents or guardian, if possible, within 2 working days of the emergency removal. An abuse and neglect petition must be filed within 5 working days, excluding weekends and holidays, of the emergency removal of a child unless arrangements acceptable to the agency for the care of the child have been made by the parents or voluntary protective services are provided pursuant to 41-3-302.

(7) Except as provided in the federal Indian Child Welfare Act, if applicable, a show cause hearing must be held within 20 days of the filing of the petition unless otherwise stipulated by the parties pursuant to 41-3-434.

(8) If the department determines that a petition for immediate protection and emergency protective services must be filed to protect the safety of the child, the ~~social worker~~ child protection specialist shall interview the parents of the child to whom the petition pertains, if the parents are reasonably available, before the petition may be filed. The district court may immediately issue an order for immediate protection of the child.

(9) The department shall make the necessary arrangements for the child's well-being as are required prior to the court hearing."

Section 10. Section 41-3-427, MCA, is amended to read:

"**41-3-427. Petition for immediate protection and emergency protective services -- order -- service.** (1) (a) In a case in which it appears that a child is abused or neglected or is in danger of being abused or neglected, the county attorney, the attorney general, or an attorney hired by the county may file a petition for immediate protection and emergency protective services. In implementing the policy of this section, the child's health and safety are of paramount concern.

(b) A petition for immediate protection and emergency protective services must state the specific authority requested and must be supported by an affidavit signed by a representative of the department stating in detail the alleged facts upon which the request is based and the facts establishing probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence that a child is abused or

neglected or is in danger of being abused or neglected. The affidavit of the department representative must contain information, if any, regarding statements made by the parents about the facts of the case.

(c) If from the alleged facts presented in the affidavit it appears to the court that there is probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence to believe that the child has been abused or neglected or is in danger of being abused and neglected, the judge shall grant emergency protective services and the relief authorized by subsection (2) until the adjudication hearing or the temporary investigative hearing. If it appears from the alleged facts contained in the affidavit that there is insufficient probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence to believe that the child has been abused or neglected or is in danger of being abused or neglected, the court shall dismiss the petition.

(d) If the parents, parent, guardian, person having physical or legal custody of the child, or attorney for the child disputes the material issues of fact contained in the affidavit or the veracity of the affidavit, the person may request a contested show cause hearing pursuant to 41-3-432 within 10 days following service of the petition and affidavit.

(e) The petition for immediate protection and emergency protective services must include a notice advising the parents, parent, guardian, or other person having physical or legal custody of the child that the parents, parent, guardian, or other person having physical or legal custody of the child may have a support person present during any in-person meeting with a ~~social worker~~ child protection specialist concerning emergency protective services. Reasonable accommodation must be made in scheduling an in-person meeting with the ~~social worker~~ child protection specialist.

(2) Pursuant to subsection (1), if the court finds probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence based on the petition and affidavit, the court may issue an order for immediate protection of the child. The court shall consider the parents' statements, if any, included with the petition and any accompanying affidavit or report to the court. If the court finds probable cause or, if the case is subject to the federal Indian Child Welfare Act, clear and convincing evidence, the court may issue an order granting the following forms of relief, which do not constitute a court-ordered treatment plan under 41-3-443:

(a) the right of entry by a peace officer or department worker;

(b) the right to place the child in temporary medical or out-of-home care, including but not limited to care provided by a noncustodial parent, kinship or foster family, group home, or institution;

(c) the right of the department to locate, contact, and share information with any extended family members who may be considered as placement options for the child;

(d) a requirement that the parents, guardian, or other person having physical or legal custody furnish information that the court may designate and obtain evaluations that may be necessary to determine whether a child is a youth in need of care;

(e) a requirement that the perpetrator of the alleged child abuse or neglect be removed from the home to allow the child to remain in the home;

(f) a requirement that the parent provide the department with the name and address of the other parent, if known, unless parental rights to the child have been terminated;

(g) a requirement that the parent provide the department with the names and addresses of extended family members who may be considered as placement options for the child who is the subject of the proceeding; and

(h) any other temporary disposition that may be required in the best interests of the child that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditure is reasonable and that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

(3) An order for removal of a child from the home must include a finding that continued residence of the child with the parent is contrary to the welfare of the child or that an out-of-home placement is in the best interests of the child.

(4) The order for immediate protection of the child must require the person served to comply immediately with the terms of the order and to appear before the court issuing the order on the date specified for a show cause hearing. Upon a failure to comply or show cause, the court may hold the person in contempt or place temporary physical custody of the child with the department until further order.

(5) The petition must be served as provided in 41-3-422."

Section 11. Section 41-3-445, MCA, is amended to read:

"**41-3-445. Permanency hearing.** (1) (a) (i) Subject to subsection (1)(b), a permanency hearing must be held by the court or, subject to the approval of the court and absent an objection by a party to the proceeding, by the foster care review committee, as provided in 41-3-115, or the citizen review board, as provided in 41-3-1010:

(A) within 30 days of a determination that reasonable efforts to provide preservation or reunification services are not necessary under 41-3-423, 41-3-438(6), or 41-3-442(1); or

(B) no later than 12 months after the initial court finding that the child has been subjected to abuse or neglect or 12 months after the child's first 60 days of removal from the home, whichever comes first.

(ii) Within 12 months of a hearing under subsection (1)(a)(i)(B) and every 12 months thereafter until the child is permanently placed in either an adoptive or a guardianship placement, the court or the court-approved entity holding the permanency hearing shall conduct a hearing and the court shall issue a finding as to whether the department has made reasonable efforts to finalize the permanency plan for the child.

(b) A permanency hearing is not required if the proceeding has been dismissed, the child was not removed from the home, the child has been returned to the child's parent or guardian, or the child has been legally adopted or appointed a legal guardian.

(c) The permanency hearing may be combined with a hearing that is required in other sections of this part or with a review held pursuant to 41-3-115 or 41-3-1010 if held within the applicable time limits. If a permanency hearing is combined with another hearing or a review, the requirements of the court related to the disposition of the other hearing or review must be met in addition to the requirements of this section.

(d) The court-approved entity conducting the permanency hearing may elect to hold joint or separate reviews for groups of siblings, but the court shall issue specific findings for each child.

(2) At least 3 working days prior to the permanency hearing, the department shall submit a report regarding the child to the entity that will be conducting the hearing for review. The report must address the department's efforts to effectuate the permanency plan for the child, address the options for the child's permanent placement, examine the reasons for excluding higher priority options, and set forth the proposed plan to carry out the placement decision, including specific times for achieving the plan.

(3) At least 3 working days prior to the permanency hearing, the guardian ad litem or an attorney or advocate for a parent or guardian may submit an informational report to the entity that will be conducting the

hearing for review.

(4) In a permanency hearing, the court or other entity conducting the hearing shall consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.

(5) (a) The court's order must be issued within 20 days after the permanency hearing if the hearing was conducted by the court. If a member of the child's extended family, including an adult sibling, grandparent, great-grandparent, aunt, or uncle, has requested that custody be awarded to that family member or that a prior grant of temporary custody with that family member be made permanent, the department shall investigate and determine if awarding custody to that family member is in the best interests of the child. The department shall provide the reasons for any denial to the court. If the court accepts the department's custody recommendation, the court shall inform any denied family member of the reasons for the denial to the extent that confidentiality laws allow. The court shall include the reasons for denial in the court order if the family member who is denied custody requests it to be included.

(b) If an entity other than the court conducts the hearing, the entity shall keep minutes of the hearing and the minutes and written recommendations must be provided to the court within 20 days of the hearing.

(c) If an entity other than the court conducts the hearing and the court concurs with the recommendations, the court may adopt the recommendations as findings with no additional hearing required. In this case, the court shall issue written findings within 10 days of receipt of the written recommendations.

(6) The court shall approve a specific permanency plan for the child and make written findings on:

(a) whether the child has been asked about the desired permanency outcome;

(b) whether the permanency plan is in the best interests of the child;

(c) whether the department has made reasonable efforts to effectuate the permanency plan for the individual child;

(d) whether the department has made reasonable efforts to finalize the plan;

(e) whether there are compelling reasons why it is not in the best interest of the individual child to:

(i) return to the child's home; or

(ii) be placed for adoption, with a legal guardian, or with a fit and willing relative; and

(f) other necessary steps that the department is required to take to effectuate the terms of the plan.

(7) In its discretion, the court may enter any other order that it determines to be in the best interests of

the child that does not conflict with the options provided in subsection (8) and that does not require an expenditure of money by the department unless the court finds after notice and a hearing that the expenditures are reasonable and that resources are available for payment. The department is the payor of last resort after all family, insurance, and other resources have been examined.

(8) Permanency options include:

(a) reunification of the child with the child's parent or guardian;

(b) permanent placement of the child with the noncustodial parent, superseding any existing custodial order;

(c) adoption;

(d) appointment of a guardian pursuant to 41-3-444; or

(e) long-term custody if the child is in a planned permanent living arrangement and if it is established by a preponderance of the evidence, which is reflected in specific findings by the court, that:

(i) the child is being cared for by a fit and willing relative;

(ii) the child has an emotional or mental handicap that is so severe that the child cannot function in a family setting and the best interests of the child are served by placement in a residential or group setting;

(iii) the child is at least 16 years of age and is participating in an independent living program and that termination of parental rights is not in the best interests of the child;

(iv) the child's parent is incarcerated and circumstances, including placement of the child and continued, frequent contact with the parent, indicate that it would not be in the best interests of the child to terminate parental rights of that parent; or

(v) the child meets the following criteria:

(A) the child has been adjudicated a youth in need of care;

(B) the department has made reasonable efforts to reunite the parent and child, further efforts by the department would likely be unproductive, and reunification of the child with the parent or guardian would be contrary to the best interests of the child;

(C) there is a judicial finding that other more permanent placement options for the child have been considered and found to be inappropriate or not to be in the best interests of the child; and

(D) the child has been in a placement in which the foster parent or relative has committed to the long-

term care and to a relationship with the child, and it is in the best interests of the child to remain in that placement.

(9) For a child 14 years of age or older, the permanency plan must:

(a) be developed in consultation with the child and in consultation with up to two members of the child's case planning team who are chosen by the child and who are not a foster parent or ~~social worker~~ child protection specialist for the child;

(b) identify one person from the case management team, who is selected by the child, to be designated as the child's advisor and advocate for the application of the reasonable and prudent parenting standard; and

(c) include services that will be needed to transition the child from foster care to adulthood.

(10) A permanency hearing must document the intensive, ongoing, and unsuccessful efforts made by the department to return the child to the child's home or to secure a permanent placement of the child with a relative, legal guardian, or adoptive parent.

(11) The court may terminate a planned permanent living arrangement upon petition of the birth parents or the department if the court finds that the circumstances of the child or family have substantially changed and the best interests of the child are no longer being served."

Section 12. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 41, chapter 3, part 1, and the provisions of Title 41, chapter 3, part 1, apply to [sections 1 through 4].

- END -

I hereby certify that the within bill,

HB 459, originated in the House.

_____

Chief Clerk of the House

_____

Speaker of the House

Signed this _____day

of_____, 2021.

_____

President of the Senate

Signed this _____day

of_____, 2021.

HOUSE BILL NO. 459

INTRODUCED BY D. LENZ

AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR CERTIFICATION OF CHILD PROTECTION SPECIALISTS INVESTIGATING MATTERS OF SUSPECTED CHILD ABUSE, NEGLECT, OR ENDANGERMENT; PROVIDING IMPLEMENTATION INSTRUCTIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 41-3-102, 41-3-108, 41-3-201, 41-3-202, 41-3-205, 41-3-301, 41-3-427, AND 41-3-445, MCA.

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill #	HB0459	**Title:**	Provide for certification of CPS workers with direct contact with children
Primary Sponsor:	Lenz, Dennis R	**Status:**	As Introduced

☐Significant Local Gov Impact ☒Needs to be included in HB 2 ☒Technical Concerns

☐Included in the Executive Budget ☐Significant Long-Term Impacts ☐Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Expenditures:				
General Fund	$41,731	$35,755	$35,755	$35,755
State Special Revenue	$28,069	$15,262	$14,563	$14,563
Federal Special Revenue	$16,229	$13,905	$13,905	$13,905
Revenue:				
General Fund	$0	$0	$0	$0
State Special Revenue	$28,069	$15,262	$14,563	$14,563
Federal Special Revenue	$16,229	$13,905	$13,905	$13,905
Net Impact-General Fund Balance:	($41,731)	($35,755)	($35,755)	($35,755)

Description of fiscal impact: HB 459 revises laws related to providing for the certification of child protection specialists (CPS) investigating matters of suspected abuse, neglect, or endangerment. This will require that CPS staff achieve certification through the Board of Behavioral Health, resulting in application fees, fingerprint check fees, and renewal fees. Additionally, the Department of Labor and Industry will incur costs related to rulemaking, Board of Behavioral Health meetings, database changes, and certification and licensing workload.

FISCAL ANALYSIS

Assumptions:

Department of Public Health & Human Services

1. New Section 2(2)(a), defines a certified child protection specialist as a person who "has obtained education and skills needed to investigate, respond to, prevent, and resolve reports of abuse, neglect, and endangerment experienced by children." The department assumes that child protection specialists (CPS) and Child

Protection Specialist Supervisors (CPSS) in the Child and Family Services Division (CFSD) will be required to attain certification. Impacted staff include 207 CPS positions and 45 CPSS positions.

2. New Section 4 establishes the requirements needed to acquire certification. CFSD provides an on-boarding training program, Montana Child Abuse and Neglect (MCAN), as a requirement for all newly hired staff. The training is designed to establish a foundation for child protection work, as well as provide the basic skill necessary to facilitate work in child protection. The MCAN training is conducted by CFSD staff and encapsulates most of the topics listed in this section. Since the training is conducted internally by CFSD, it can be expanded to include additional topics at no additional cost.
3. The department assumes all current FTE meet the requirements of New Section 4, with the exception of the competency examination that will be developed by the Board. As a result, all current FTE are anticipated to achieve certification in FY 2022.
4. New Section 4 establishes the following fees: an initial application fee estimated to cost $200 per FTE and fingerprints checks estimated to cost $30 per FTE.
5. Section 5 requires CPS to renew their certification annually and provide proof of completion of at least 20 hours of continuing education to include at least one of the topics listed in the section. Annually, CFSD enters into a Title IV-E training contract with the University of Montana, School of Social Work. The purpose of the contract is to provide on-going training to existing staff. The scope of training can be adapted to include the topics included in this section. The amendment to the training curriculum can be made with no increased cost to CFSD.
6. New Section 5 establishes a renewal fee estimated to cost $150, and it is assumed that fingerprint checks will also be conducted with each renewal.
7. CPS positions are assumed to turnover at an annual rate of 37.5% and CPSS positions are assumed to turnover at an annual rate of 18.2%.
8. The table below reflect the total estimated costs for FY 2022 through FY 2025.

Fee Description	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**
Initial Application Fee ($200 x 207 FTE)	$ 50,400	$ -	$ -	$ -
Initial Fingerprint Fees ($30 x 207 FTE)	$ 7,560	$ -	$ -	$ -
CPS Renewal Fees ($180 per FTE; 62.5% retention)	$ -	$ 23,220	$ 23,220	$ 23,220
CPSS Renewal Fees ($180 per FTE; 81.8% retention)	$ -	$ 6,660	$ 6,660	$ 6,660
CPS Turnover Initial Application Fees ($230 per FTE; 37.5% turnover)	$ -	$ 17,940	$ 17,940	$ 17,940
CPSS Turnover Initial Application Fees ($230 per FTE; 18.2% turnover)	$ -	$ 1,840	$ 1,840	$ 1,840
Total Costs	$ 57,960	$ 49,660	$ 49,660	$ 49,660

Funding	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**
General Fund (72%)	$ 41,731	$ 35,755	$ 35,755	$ 35,755
Federal Fund (28%)	$ 16,229	$ 13,905	$ 13,905	$ 13,905
Total Funding	$ 57,960	$ 49,660	$ 49,660	$ 49,660

Department of Labor and Industry

9. The Board of Behavioral Health, (BBH), will draft rules to implement this legislation. It is assumed there will be 20-page rule notice and five-page adoption notice, with a cost to the board from the Secretary of State for $1,500, (25 pages x $60 per page).
10. The BBH will hold a public hearing for a maximum of two hours to take comments from the public on the proposed rules with a hearing officer and court reporter present to record comments and provide a transcript. Estimated cost is $449, (hearing officer for two hours x $97 per hour + court reporter time and transcript $255).

11. The BBH will notify interested parties of the rule changes as required. Currently, the board contacts all parties by email and directs them to the board website for information on notices, hearings, and how to provide comment in writing or in person at the hearing.
12. The BBH will utilize additional department legal services to draft the notice, assist in responding to comments, and prepare the adoption notice to add this new certification. Estimated cost to the board for additional legal time for board counsel and the department legal rule reviewer is $6,120, (60 hours x $102 per hour).
13. Total rulemaking costs for the first year of the biennium are $8,069.
14. This new certification type will be added to the licensing database, to include a license application, renewal record, supervision tracking, continuing education entry and tracking, and compliance record. In addition, forms will be created for online completion of application, renewal, continuing education, and the board website will be updated to include certification information and updates for the public to the licensee lookup system. The BBH will be assisted in this by the department's Technology Services Division, (TSD), and TSD will bill the board for its services.
15. It is estimated TSD will spend 300 hours total on these tasks, (analysis, design, development, scripting/expressions, UAT, go live), at a rate of $84 per hour for a total expense to the board of $25,200. Work will be completed by existing staff and contractors using existing department appropriation.
16. The addition of a new certification will result in ongoing increased workload for board licensing and management staff. It is estimated this certification could be applied for by up to 250 child protective workers by the second year of the biennium. The department will need an additional .25 FTE Licensing Technician, with salary of $8,672.26, and benefits of $4,717.80 annually, CAP, (listed in table under operating) of $1,171.63, and office supplies and computer set up of $700 in year two of the biennium.
17. The legislation requires applicants for the certification to successfully complete a course in child protection as defined by board rule, with training in specific areas, and to earn a passing score on a competency examination as provided by the board. The DLI assumes that the Montana Child Abuse and Neglect (MCAN) training program conducted by DPHHS would meet all requirements for certification. In addition, applicants are required to undergo a fingerprint and background check through arrangement with the Montana Department of Justice.
18. Fees for certification and subsequent renewal will be set by the board and will be commensurate with costs. It is estimated there are 250 people currently employed as child protective workers who have taken the course and are eligible for the exam for this certification, and that initial certification would not take place until the second year of the biennium.

	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
FTE	0.00	0.25	0.25	0.25
Expenditures:				
Personal Services	$0	$13,391	$13,391	$13,391
Operating Expenses	$66,029	$51,532	$50,832	$50,832
Benefits	$0	$0	$0	$0
TOTAL Expenditures	$66,029	$64,922	$64,223	$64,223
Funding of Expenditures:				
General Fund (01)	$41,731	$35,755	$35,755	$35,755
State Special Revenue (02)	$28,069	$15,262	$14,563	$14,563
Federal Special Revenue (03)	$16,229	$13,905	$13,905	$13,905
TOTAL Funding of Exp.	$86,029	$64,922	$64,223	$64,223
Revenues:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$28,069	$15,262	$14,563	$14,563
Federal Special Revenue (03)	$16,229	$13,905	$13,905	$13,905
TOTAL Revenues	$44,298	$29,167	$28,468	$28,468
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($41,731)	($35,755)	($35,755)	($35,755)
State Special Revenue (02)	$0	($0)	$0	$0
Federal Special Revenue (03)	$0	$0	$0	$0

Technical Notes:

1. Page 3, Line 2 refers to denial of a "license." The remainder of Sections 1 through 5 refer to the credential to be issued as a "certificate."
2. This fiscal note assumes that the Board of Behavioral Health (BBH) would approve the Montana Child Abuse and Neglect (MCAN) training as a course in child protection, as provided in NEW SECTION 4 (2)(a). If the BBH does not approve the MCAN as an eligible course in child protection, the Department of Labor and Industry will need to conduct an RFP for a course(s), and exam per Section 2 of the bill as there is no national course or exam known. Estimated costs for the RFP and for a final contract for the provision of this service, is $20,000. Once the exam is developed, costs for the actual examination fee could be part of the application process for certification.

Sponsor's Initials

2-24-21
Date

KA
Budget Director's Initials

2/23/21
Date

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
67th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Barry Usher, on February 22, 2021 at 8:00 AM, in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Barry Usher, Chair (R)
Rep. Kathy Kelker, Vice Chair (D)
Rep. Amy Regier, Vice Chair (R)
Rep. Seth Berglee (R)
Rep. Laurie Bishop (D)
Rep. Jennifer Carlson (R)
Rep. Robert Farris-Olsen (D)
Rep. Frank Fleming (R)
Rep. Tom France (D)
Rep. Jane Gillette (R)
Rep. Donavon Hawk (D)
Rep. Jedediah Hinkle (R)
Rep. Dennis R. Lenz (R)
Rep. Brandon Ler (R)
Rep. Bob Phalen (R)
Rep. Derek Skees (R)
Rep. Ed Stafman (D)
Rep. Mallerie Stromswold (R)
Rep. Danny Tenenbaum (D)

Members Excused: None

Members Absent: None

Staff Present:

Lydia Balian, Committee Secretary
Rachel Weiss, Legislative Branch
Hallie Swain, Remote Meeting Coordinator

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	HB 517, 2/19/2021; HB 435, 2/19/2021; HB 393, 2/19/2021; HB 459, 2/19/2021; HB 503, 2/19/2021; HB 509, 2/19/2021; HB 451, 2/19/2021; HB 427, 2/19/2021; HB 439, 2/19/2021; HB 502, 2/19/2021; HB 436, 2/19/2021; HB 478, 2/19/2021; HB 430, 2/19/2021; HB 519, 2/19/2021; HB 449, 2/19/2021; HB 504, 2/19/2021; HB 463, 2/19/2021; HB 499, 2/19/2021; HB 501, 2/19/2021; HB 515, 2/19/2021
Executive Action on:	HB 517; HB 435; HB 393; HB 459; HB 503; HB 509; HB 451; HB 439; HB 502; HB 436; HB 478; HB 427; HB 430; HB 504; HB 463; HB 515

HEARING ON HB 517

Opening Statement by Sponsor:

07:08:38 Rep. Bill Mercer (R), HD 46, opened the hearing on HB 517, Revise penalties related to underage marijuana possession and use.

07:11:48 Rep. J. Hinkle, Rep. Skees, and Rep. Tenenbaum left the meeting.

Proponents' Testimony:

07:12:07 Brian Thompson, Montana County Attorneys' Association (MCAA)

Opponents' Testimony:

07:13:36 Erica Siate, self
07:16:27 SK Rossi, American Civil Liberties Union of Montana (ACLU)

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

07:17:55 Rep. Mercer

EXECUTIVE ACTION ON HB 517

07:18:56 **Motion/Vote:** Rep. A. Regier moved that **HB 517 DO PASS**. Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. J. Hinkle, Rep. Skees and Rep. Tenenbaum voted by proxy.

HEARING ON HB 435

Opening Statement by Sponsor:

07:20:24 Rep. Bill Mercer (R), HD 46, opened the hearing on HB 435, Generally revise civil liability laws for government.

Proponents' Testimony:

07:24:46 Brian Thompson, Montana County Attorneys' Association (MCAA); Montana Municipal Interlocal Authority (MMIA)
07:25:35 Garrett Bacon, self
07:26:23 Emily Dean, Montana School Boards Association (MTSBA)
07:27:25 Dennis Parman, Montana Rural Education Association (MREA)

Opponents' Testimony:

07:28:45 Amanda Curtis, Montana Federation of Public Employees (MFPE)
07:29:55 Al Smith, Montana Trial Lawyers Association (MTLA)
07:33:46 Maysoon Simmons, self
07:35:06 Laurie Little Dog, self
07:36:38 Rep. Skees rejoined the meeting.

07:37:32 Josh Butterfly, Opening Doors

Informational Testimony: None

Questions from Committee Members and Responses:
07:39:41 Rep. Carlson
07:41:22 Rep. Mercer
07:42:26 Rep. Hawk
07:42:50 Amanda Curtis, MFPE
07:42:55 Rep. Tenenbaum rejoined the meeting.

Closing by Sponsor:
07:44:45 Rep. Mercer

EXECUTIVE ACTION ON HB 435

07:45:40 **Motion:** Rep. A. Regier moved that **HB 435 DO PASS**.

Discussion:
07:45:49 Rep. Gillette

07:46:20 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. J. Hinkle voted by proxy.

07:47:31 Vice Chair Regier

HEARING ON HB 393

Opening Statement by Sponsor:
07:49:17 Rep. Jane Gillette (R), HD 64, opened the hearing on HB 393, Revise laws related to amendment of a parenting plan due to change in residence.

Proponents' Testimony:
07:51:18 Christopher Gillette, self
07:54:52 Mars Scott, self
07:57:12 Lori Harshbarger, self
07:58:54 Chair Usher left the meeting.
07:59:11 Vice Chair Regier assumed the chair.
07:59:31 Gail Goheen, self
08:02:44 Grant Jamieson, self
08:03:29 Chair Usher rejoined the meeting.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:
08:06:39 Rep. Stafman
08:08:10 Mars Scott, self

Closing by Sponsor:
08:08:56 Rep. Gillette
EXHIBIT(juh37a01)

EXECUTIVE ACTION ON HB 393

08:10:10 **Motion/Vote:** Rep. A. Regier moved that **HB 393 DO PASS**. Motion carried 16-1 by voice vote with Rep. Farris-Olsen voting no.

HEARING ON HB 459

Opening Statement by Sponsor:
08:10:53 Rep. Dennis Lenz (R), HD 53, opened the hearing on HB 459, Provide for certification of CPS workers with direct contact with children.

Proponents' Testimony:
08:13:50 Denise Johnson, Montana Child Protection Alliance (MCPA)
EXHIBIT(juh37a02)

08:15:30 Rep. Tenenbaum rejoined the meeting.
08:15:31 Kathy Eakin, self
08:17:19 Lacy Berg, self
08:19:14 Phillip Berg, self
08:19:36 Kelly Santiago, self
08:20:54 Alyssa Landsverk, self

Opponents' Testimony:
08:22:48 Marti Vining, Department of Public Health and Human Services (DPHHS)
08:25:24 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)
08:27:10 Ann Truesdell, Montana Chapter of the National Association of Social Workers (NASW)
08:29:41 Lauren Wilson, self

Informational Testimony: None

Questions from Committee Members and Responses:
08:31:18 Vice Chair Kelker
08:33:12 Rep. Lenz
08:34:25 Rep. France
08:35:13 Marti Vining, DPHHS
08:39:12 Rep. Skees
08:41:41 Marti Vining, DPHHS
08:42:41 Rep. Carlson
08:43:14 Rep. Lenz

Closing by Sponsor:
08:44:37 Rep. Lenz

EXECUTIVE ACTION ON HB 459

08:49:12 **Motion:** Rep. A. Regier moved that **HB 459 DO PASS**.

Discussion:
08:49:25 Rep. Bishop
08:50:29 Rep. France
08:51:59 Vice Chair Kelker
08:53:20 Rep. Skees
08:54:33 Rep. Carlson

08:55:34 **Vote:** Motion carried 14-5 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Kelker and Rep. Stafman voting no. Rep. J. Hinkle voted by proxy.

08:56:41 Brief Recess
09:02:55 Reconvened

HEARING ON HB 503

Opening Statement by Sponsor:
09:03:06 Rep. Dennis Lenz (R), HD 53, opened the hearing on HB 503, Revise laws relating to child protective services hearings.

Proponents' Testimony:
09:08:04 Denise Johnson, Montana Child Protection Alliance (MCPA)
09:10:23 Lacy Berg, self
09:11:41 Kathy Eakin, self
09:12:15 Phillip Berg, self
09:12:32 Nanette Gilbertson, Montana County Attorneys' Association (MCAA)
09:14:55 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)

Opponents' Testimony:
09:17:28 Marti Vining, Department of Public Health and Human Services (DPHHS)

Informational Testimony: None

Questions from Committee Members and Responses:
09:20:54 Vice Chair Kelker
09:21:46 Rep. Lenz
09:22:46 Vice Chair Kelker
09:23:07 Nanette Gilbertson, MCAA
09:23:51 Rep. Tenenbaum
09:24:15 Rep. Lenz
09:25:23 Rep. Tenenbaum
09:25:37 Marti Vining, DPHHS
09:27:40 Nanette Gilbertson, MCAA
09:28:11 Vice Chair Kelker
09:29:02 Rep. Lenz

09:30:23 Rep. Gillette
09:30:51 Chair Usher
09:31:25 Rep. Carlson

Closing by Sponsor:
09:32:27 Rep. Lenz

EXECUTIVE ACTION ON HB 503

09:34:55 **Motion/Vote:** Rep. A. Regier moved that **HB 503 DO PASS**. Motion carried unanimously by roll call vote. Rep. J. Hinkle voted by proxy.

HEARING ON HB 509

Opening Statement by Sponsor:
09:36:12 Rep. Danny Tenenbaum (D), HD 95, opened the hearing on HB 509, Revising robocall fines.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:
09:38:11 Rep. Skees
09:41:45 Rep. Tenenbaum
09:41:50 Rep. Lenz left the meeting.

Closing by Sponsor:
09:42:07 Rep. Tenenbaum

EXECUTIVE ACTION ON HB 509

09:42:42 **Motion:** Rep. A. Regier moved that **HB 509 DO PASS**.

09:42:51 **Substitute Motion/Vote:** Rep. Skees made a substitute motion that **HB 509 BE TABLED**. Substitute Motion failed 8-11 by roll call vote with Rep. Berglee, Rep. J. Hinkle, Rep. Lenz, Rep. Phalen, Rep. A. Regier, Rep. Skees, Rep. Stromswold and Rep. Usher voting aye. Rep. J. Hinkle and Rep. Lenz voted by proxy.

09:44:25 Rep. Stafman
09:44:47 Rep. Skees
09:45:30 Chair Usher
09:46:06 Vice Chair Kelker

09:46:56 **Vote:** Motion carried unanimously by roll call vote. Rep. J. Hinkle and Rep. Lenz voted by proxy.

HEARING ON HB 451

Opening Statement by Sponsor:

09:48:11 Rep. Robert Farris-Olsen (D), HD 79, opened the hearing on HB 451, Generally revise time served requirements.

Proponents' Testimony:

09:51:15 Laurel Hesse, American Civil Liberties Union of Montana (ACLU)
09:51:43 SJ Howell, Montana Women Vote (MWV)
09:52:47 Laurie Little Dog, self
09:56:38 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)

Opponents' Testimony:

Informational Testimony:

Questions from Committee Members and Responses:

09:53:59 Rep. Gillette
09:55:33 Rep. Farris-Olsen
09:56:53 Rep. Carlson
09:57:21 Rep. Farris-Olsen

Closing by Sponsor:

09:58:44 Rep. Farris-Olsen

EXECUTIVE ACTION ON HB 451

09:59:45 **Motion/Vote:** Rep. A. Regier moved that **HB 451 DO PASS**. Motion carried unanimously by voice vote. Rep. J. Hinkle and Rep. Lenz voted by proxy.

HEARING ON HB 427

Opening Statement by Sponsor:

10:00:45 Rep. John Fuller (R), HD 8, opened the hearing on HB 427, Provide for youth health protection.

Proponents' Testimony:

10:04:32 Jeff Laszloffy, Montana Family Foundation (MFF)
10:07:02 Harris Himes, Big Sky Christian Center
10:08:44 Garrett Bacon, self
10:10:17 Arthur Schaper, MassResistance

Opponents' Testimony:

10:14:40 Dr. Erin Grantham, Billings Clinic
10:17:47 Dr. Lauren Wilson, Montana American Academy of Pediatrics (AAP)
10:18:42 Chair Usher left the meeting.
10:18:50 Vice Chair Regier assumed the chair.
10:20:43 Laurel Hesse, American Civil Liberties Union of Montana (ACLU)

10:21:42 Rep. Berglee and Rep. Carlson left the meeting.
10:23:16 Rep. Gillette
10:23:41 Stacey Anderson, Montana Primary Care Association (MPCA)
10:24:21 Sean Reagor, Montana Human Rights Network (MHRN)
10:26:51 Rep. J. Hinkle rejoined the meeting.
10:27:34 SK Rossi, Cities of Missoula and Bozeman
10:30:15 Kate Bick, self
10:31:56 Maggie Callow, self
10:34:30 Kelly Two Teeth, Montana Native Vote (MNV)
10:36:49 Kathryn Lowe, Montana American Academy of Pediatrics (AAP)
10:40:27 John Ewan, self
10:41:06 Chair Usher rejoined the meeting.
10:44:10 Heather Zaluski, Shodair Children's Hospital
10:46:58 Laura Terrill, Planned Parenthood Advocates of Montana
10:47:49 Quinn Leighton, Pride Foundation
10:50:03 Ann Truesdell, Montana Chapter of the National Association of Social Workers (NASW)
10:51:35 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)
10:52:51 Chair Usher
10:53:42 SJ Howell, Montana Women Vote (MWV)
10:55:24 Anna Louise Peterson, self

Informational Testimony: None

Questions from Committee Members and Responses:
10:58:22 Vice Chair Kelker
10:59:28 Dr. Lauren Wilson, Montana American Academy of Pediatrics (AAP)
10:59:35 Rep. Stafman
11:01:49 Dr. Erin Grantham, Billings Clinic
11:02:00 Rep. Gillette
11:03:12 Rep. Fuller
11:03:59 Rep. Skees
11:06:02 Dr. Lauren Wilson, Montana American Academy of Pediatrics (AAP)

Closing by Sponsor:
11:06:34 Rep. Fuller

HEARING ON HB 439

Opening Statement by Sponsor:
11:08:50 Rep. Steven Galloway (R), HD 24, opened the hearing on HB 439, Revise landlord tenant laws.

Proponents' Testimony:
11:11:07 John Sinrud, Montana Landlords Association (MLA)
11:13:19 Rep. Berglee rejoined the meeting.
11:14:38 Commissioner Randall Pinocci, Montana Public Service Commission (PSC)

Opponents' Testimony:
11:15:33 Katjana Stutzer, Montana Public Interest Research Group (MontPIRG)
11:18:36 Allison Reinhardt, Montana Associated Students (MAS)
11:19:48 Keaton Sunchild, Western Native Voice (WNV)

Informational Testimony: None

Questions from Committee Members and Responses:
11:20:57 Rep. Tenenbaum
11:21:26 Rep. Galloway
11:21:42 John Sinrud, MLA
11:21:52 Chair Usher
11:22:12 Rep. Carlson
11:24:14 John Sinrud, MLA
11:24:29 Rep. Stafman
11:24:57 John Sinrud, MLA
11:24:58 Rep. Gillette left the meeting. Rep. Carlson and Rep. Lenz rejoined the meeting.

Closing by Sponsor:
11:25:52 Rep. Galloway

EXECUTIVE ACTION ON HB 439

11:27:25 **Motion:** Rep. A. Regier moved that **HB 439 DO PASS**.

Discussion:
11:27:46 Rep. Hawk
11:28:01 Rep. Carlson

11:28:37 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Gillette voted by proxy.

HEARING ON HB 502

Opening Statement by Sponsor:
11:30:59 Rep. Lola Sheldon-Galloway (R), HD 22, opened the hearing on HB 502, Create exemption from child-placement licensure requirements.

Proponents' Testimony:
11:33:07 Rick Jore, self
EXHIBIT(juh37a03)

11:35:47 Jeff Laszloffy, Montana Family Foundation (MFF)
11:37:25 Rep. Galloway
11:38:00 Tony Rausch, self
11:38:41 Donna Elford, self

Opponents' Testimony:
11:39:54 Matt Brower, Montana Catholic Conference

Informational Testimony: None

Questions from Committee Members and Responses:
11:41:13 Rep. Bishop
11:42:04 Rep. Sheldon-Galloway
11:43:05 Rep. France
11:44:28 Matt Brower, Montana Catholic Conference
11:44:54 Rep. Carlson
11:45:52 Vice Chair Kelker
11:46:25 Rep. Stafman
11:47:52 Rep. Sheldon-Galloway
11:47:58 Rep. J. Hinkle left the meeting.

Closing by Sponsor:
11:48:26 Rep. Sheldon-Galloway

EXECUTIVE ACTION ON HB 502

11:49:14 **Motion:** Rep. A. Regier moved that **HB 502 DO PASS**.

Discussion:
11:49:26 Vice Chair Kelker
11:49:58 Rep. France
11:50:35 Rep. Skees
11:51:10 Rep. Stafman
11:52:22 Rep. Carlson
11:53:01 Vice Chair Kelker

11:54:15 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Gillette and Rep. J. Hinkle voted by proxy.

11:56:28 Recess
12:11:58 Reconvened

HEARING ON HB 436

Opening Statement by Sponsor:
12:12:18 Rep. Scot Kerns (R), HD 23, opened the hearing on HB 436, Generally revise firearms laws.

Proponents' Testimony:
12:14:49 Randy Pinocci, Montana Shooting Sports Association (MSSA)
12:15:33 Tony Rausch, self
12:16:05 Garrett Bacon, self
12:16:17 Rep. Gillette rejoined the meeting.

Opponents' Testimony:
12:17:08 Jack Rinck, Associated Students of the University of Montana (ASUM)
12:18:37 Keaton Sunchild, Western Native Voice (WNV)
12:20:02 Kelly Lynch, Montana League of Cities and Towns (MLCT)

Informational Testimony: None

Questions from Committee Members and Responses:
12:21:45 Rep. Skees
12:22:04 Jack Rinck, ASUM
12:22:20 Rep. Skees
12:23:53 Kelly Lynch, MLCT
12:24:18 Rep. Stafman
12:24:44 Rep. Kerns

Closing by Sponsor:
12:26:06 Rep. Kerns

EXECUTIVE ACTION ON HB 436

12:26:52 **Motion/Vote:** Rep. A. Regier moved that **HB 436 DO PASS**. Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. J. Hinkle voted by proxy.

HEARING ON HB 478

Opening Statement by Sponsor:
12:27:57 Rep. Derek Harvey (D), HD 74, opened the hearing on HB 478, Generally revise DUI laws.

Proponents' Testimony:
12:30:15 Alan Doane, Montana Department of Justice (DOJ)
12:30:37 Shelby DeMars, Montana Police Protective Association (MPPA)
12:30:54 Scott Larson, Forensic Science Division of the Department of Justice (DOJ)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:
12:32:09 Rep. Harvey

EXECUTIVE ACTION ON HB 478

12:32:28 **Motion/Vote:** Rep. A. Regier moved that **HB 478 DO PASS**. Motion carried 17-0 by voice vote.

EXECUTIVE ACTION ON HB 427

12:34:10 **Motion:** Rep. A. Regier moved that **HB 427 DO PASS**.

12:34:19 **Substitute Motion/Vote:** Rep. Hawk made a substitute motion that **HB 427 BE TABLED**. Substitute Motion failed 8-11 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman, Rep. Stromswold and Rep. Tenenbaum voting aye. Rep. J. Hinkle voted by proxy.

12:35:31 **Vote:** Motion carried 11-8 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman, Rep. Stromswold and Rep. Tenenbaum voting no. Rep. J. Hinkle voted by proxy.

HEARING ON HB 430

Opening Statement by Sponsor:
12:38:15 Rep. Kathy Whitman (R), HD 96, opened the hearing on HB 430, Revise landlord tenant laws during emergency.

Proponents' Testimony:
12:40:13 Commissioner Randy Pinocci, Montana Public Service Commission (PSC)

Opponents' Testimony:
12:41:45 Allison Reinhardt, Montana Associated Students (MAS)

Informational Testimony:
12:42:59 John Sinrud, Montana Landlord Association (MLA)

Questions from Committee Members and Responses:
12:43:22 Rep. Ler
12:43:47 Vice Chair Kelker
12:44:21 Rep. Whitman
12:48:18 John Sinrud, MLA
12:48:39 Rep. Tenenbaum
12:50:08 John Sinrud, MLA
12:51:11 Rep. Skees

Closing by Sponsor:
12:51:29 Rep. Whitman

EXECUTIVE ACTION ON HB 430

12:52:16 **Motion/Vote:** Rep. A. Regier moved that **HB 430 DO PASS**. Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. J. Hinkle voted by proxy.

12:53:28 Recess
15:18:10 Reconvened with Rep. Lenz, Rep. Gillette, Rep. Ler, Rep. Skees, Rep. Berglee, Rep. Phalen, Rep. J. Hinkle, Rep. Farris-Olsen and Rep. Tenenbaum excused.

HEARING ON HB 519

Opening Statement by Sponsor:
15:18:24 Rep. Katie Zolnikov (R), HD 45, opened the hearing on HB 519, Revise laws regarding parenting time.
EXHIBIT(juh37a04)

Proponents' Testimony:
15:21:49 Nevada Thompson, self
EXHIBIT(juh37a05)

15:28:22 Jason Eals, self

Opponents' Testimony:
15:30:46 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)

Informational Testimony:
15:34:14 Mars Scott, self
15:34:40 Gail Goheen, self

Questions from Committee Members and Responses:
15:35:46 Vice Chair Kelker
15:37:41 Mars Scott, self
15:39:11 Rep. France
15:39:24 Gail Goheen, self

Closing by Sponsor:
15:40:57 Rep. Zolnikov

HEARING ON HB 504

Opening Statement by Sponsor:
15:47:26 Rep. Casey Knudsen (R), HD 33, opened the hearing on HB 504, Generally revise firearms and weapons laws.
EXHIBIT(juh37a06)

Proponents' Testimony:
15:48:52 Garrett Bacon, self

Opponents' Testimony:
15:49:51 Kelly Lynch, Montana League of Cities and Towns (MLCT)

Informational Testimony: None

Questions from Committee Members and Responses:
15:51:29 Rep. France
15:53:45 Rep. C. Knudsen

Closing by Sponsor:
15:54:28 Rep. C. Knudsen

EXECUTIVE ACTION ON HB 504

15:55:09 **Motion/Vote:** Rep. A. Regier moved that **HB 504 DO PASS**. Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Berglee, Rep. Farris-Olsen, Rep. Gillette, Rep. J. Hinkle, Rep. Lenz, Rep. Ler, Rep. Phalen, Rep. Skees and Rep. Tenenbaum voted by proxy.

HEARING ON HB 449

Opening Statement by Sponsor:
15:56:50 Rep. Frank Garner (R), HD 7, opened the hearing on HB 449, Revise pretrial release laws involving electronic monitoring.

15:59:12 Rep. J. Hinkle joined the meeting.
16:01:14 Rep. Carlson left the meeting.

Proponents' Testimony:
16:01:38 Brian Thompson, Montana County Attorneys' Association (MCAA)
16:03:28 Dan Smith, Montana Police Protective Association (MPPA)
16:04:01 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)
16:06:43 Mayre Flowers, self
16:10:32 Shinnah Sullivan, self

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:
16:14:24 Vice Chair Kelker
16:14:49 Rep. Garner
16:15:12 Rep. France
16:15:34 Rep. Garner
16:16:21 Rep. J. Hinkle
16:16:44 Rep. Garner

Closing by Sponsor:
16:17:21 Rep. Garner

HEARING ON HB 463

Opening Statement by Sponsor:
16:18:54 Rep. Jeremy Trebas (R), HD 26, opened the hearing on HB 463, Revise timeline for restriction on gift instrument or instrument of donor intent.

Proponents' Testimony:
16:22:18 Derek Oestreicher, Montana Attorney General's Office (AG)
16:23:09 David Bell, Grateful Nation Montana

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:
16:25:32 Rep. Trebas

EXECUTIVE ACTION ON HB 463

16:25:44 **Motion/Vote:** Rep. A. Regier moved that **HB 463 DO PASS**. Motion carried unanimously by voice vote. Rep. Berglee, Rep. Carlson, Rep. Farris-Olsen, Rep. Gillette, Rep. Lenz, Rep. Ler, Rep. Phalen, Rep. Skees and Rep. Tenenbaum voted by proxy.

HEARING ON HB 499

Opening Statement by Sponsor:
16:27:39 Rep. Jeremy Trebas (R), HD 26, opened the hearing on HB 499, Revise child abuse and neglect laws regarding reasonable efforts.

16:28:54 Chair Usher left the meeting.
16:28:55 Vice Chair Regier assumed the chair.

Proponents' Testimony:
16:30:44 Denise Johnson, Montana Child Protection Alliance (MCPA)
EXHIBIT(juh37a07)

16:33:36 David Kesler, self
16:35:56 Keith Newmeyer, self
16:37:41 Kathy Eakin, self
16:37:50 Chair Usher rejoined the meeting.
16:38:51 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)

Opponents' Testimony:
16:40:43 Brian Thompson, Montana County Attorneys' Association (MCAA)
16:41:43 Marti Vining, Department of Public Health and Human Services (DPHHS)

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:
16:44:26 Rep. Trebas

EXECUTIVE ACTION ON HB 499

16:45:04 **Motion:** Rep. A. Regier moved that **HB 499 DO PASS**.

Discussion:
16:45:14 Vice Chair Kelker
16:45:51 Rep. Trebas

16:46:08 **Motion/Vote:** Rep. Usher moved to **POSTPONE CONSIDERATION ON HB 499**. Motion carried unanimously by voice vote.

16:46:44 Recess
17:03:45 Reconvened

HEARING ON HB 501

Opening Statement by Sponsor:
17:05:44 Rep. Jeremy Trebas (R), HD 26, opened the hearing on HB 501, Generally revise criminal procedure and criminal laws.

Proponents' Testimony: None

Opponents' Testimony:
17:09:40 Brian Thompson, Montana County Attorneys' Association (MCAA)
17:11:00 Rhonda Wiggers, National Federation of Independent Business (NFIB)
17:13:27 Kelly Lynch, Montana League of Cities and Towns (MLCT)

Informational Testimony: None

Questions from Committee Members and Responses:
17:14:43 Rep. J. Hinkle
17:15:17 Rep. Trebas
17:15:43 Chair Usher
17:16:01 Rep. Trebas

Closing by Sponsor:
17:16:18 Rep. Trebas

17:16:58 Rep. Stafman left the meeting.

HEARING ON HB 515

Opening Statement by Sponsor:
17:18:28 Rep. Jeremy Trebas (R), HD 26, opened the hearing on HB 515, Generally revise laws relating to child and family services.

Proponents' Testimony:
17:22:07 Denise Johnson, Montana Child Protection Alliance (MCPA)
17:25:33 David Kesler, self

17:28:31 Kathy Eakin, self
17:29:47 Keith Newmeyer, self

Opponents' Testimony:
17:32:08 Brian Thompson, Montana County Attorneys' Association (MCAA)
17:34:03 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)
17:36:10 Marti Vining, Department of Public Health and Human Services (DPHHS)

Informational Testimony: None

Questions from Committee Members and Responses:
17:40:20 Vice Chair Kelker
17:41:20 Brian Thompson, MCAA
17:43:13 Marti Vining, DPHHS
17:43:50 Rep. J. Hinkle
17:45:47 Marti Vining, DPHHS
17:46:57 Rep. France
17:47:53 Marti Vining, DPHHS
17:48:00 Chair Usher
17:48:55 Marti Vining, DPHHS
17:50:23 Brian Thompson, MCAA
17:50:41 Kelsen Young, MCADSV
17:51:17 Chair Usher
17:54:46 Brian Thompson, MCAA

Closing by Sponsor:
17:55:10 Rep. Trebas

EXECUTIVE ACTION ON HB 515

17:56:49 **Motion:** Rep. A. Regier moved that **HB 515 DO PASS**.

17:57:05 **Substitute Motion/Vote:** Rep. Kelker made a substitute motion that **HB 515 BE TABLED**. Substitute Motion failed 7-12 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting aye. Rep. Berglee, Rep. Carlson, Rep. Farris-Olsen, Rep. Gillette, Rep. Lenz, Rep. Ler, Rep. Skees, Rep. Stafman and Rep. Tenenbaum voted by proxy.

17:58:27 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Berglee, Rep. Carlson, Rep. Farris-Olsen, Rep. Gillette, Rep. Lenz, Rep. Ler, Rep. Skees, Rep. Stafman and Rep. Tenenbaum voted by proxy.

18:00:35 Rachel Weiss, Legislative Services Division (LSD)
18:01:48 Chair Usher
18:04:01 Hallie Swain, Remote Meeting Coordinator
18:04:45 Rep. Bishop

18:05:30	Chair Usher
18:07:36	Rep. Bishop
18:07:56	Chair Usher
18:08:44	Rep. Bishop
18:09:10	Chair Usher
18:10:23	Rep. Bishop
18:10:34	Chair Usher

ADJOURNMENT

Adjournment: 18:11:18

_____
Lydia Balian, Secretary

lb

Additional Documents:

EXHIBIT(juh37aad.pdf)

EXHIBIT 2
DATE 2/22/21
HB 459

My name is Dave Kesler III. I'm in support of this and all bills that bring regulation and transparency to the CPS system. I was awarded full custody of my little girl in 2017 with her mom having weekend visitations. There have been no complaints or problems with my parenting since 2017. My now 8yr old daughter has been involved in the CPS system for almost all of her life. Her Mother has been investigated roughly 40 times, reported by mainly mandatory reporters, counselors, doctors, etc. for abusing her ranging from bruises, telling her she hates half of her (the half that's me), involving her in child pornography, still wiping her bottom at 8yrs old, having the man who raped mom unconscious babysit our daughter, to instructing her how, when, and where to put the gun to her head to commit suicide at 5 yrs old. Several times in the past 7 years I have requested my daughter's records from CPS with answers all over the board but have not yet seen them. I've heard from Lyndsee Angelo in Missoula, "I've sent them twice, not going to do it again". From Jen Hoaraff in Butte/Anaconda, "You don't have a right to them. Keep asking, I'll call the cops." and from the head office in Helena, "You do not have a right to see any records on you or your daughter, I don't know where you got that idea."

In November of 2020 My daughter's counselor wrote a letter to CPS stating in part, "[redacted] regularly reports to this therapist that her mom hurts her, and she does not want to have to go to her mom's, she never reports concerns about her dad even when asked." About 6 weeks ago CPS worker Lyndsee Angelo and another man pulled my little girl from class and interviewed her without my consent. During the interview Lyndsee called me and I went to the school immediately. Upon arrival I found my daughter crying in a room with Lyndsee and the man, between her and the door. She ran to me and hugged me crying in fear. I tried to calm her down, walked her back to her class and went back to Lyndsee and the interview. I was told I was being investigated for psychologically abusing my little girl. During my interview Lyndsee brought up a psych eval that was done in about 2015 which said nothing bad about my parenting and has already been seen by the court, litigated, and then when my ex-wife lost custody in the divorce it went to the State Supreme Court where the judge's ruling was upheld. I offered more recent reports and evaluations, pictures of the house my ex-wife had lived in with our daughter at the same time as the report she cited. Lyndsee wasn't interested and declined. I asked if my home would be inspected as part of the investigation and was told it would. I offered right then to go do the inspection and was refused. For all intents and purposes, I was basically told that she would use what she wanted from an almost 7yr old report and nothing more.

Today, Saturday Feb, 20 Lyndsee, the same male social worker and a police officer came to my home and she informed me that she was removing [redacted] from my care and placing her with her mother, the abuser 350 miles away. This removed my little girl from every aspect of her life that's familiar and safe... her school, friends, ballet class, grandparents, father, her home, church, etc. I was told that I'll be appointed a public defender, but wasn't told who or when. I was told this will take at least 90 days after the judge grants their request to proceed. I was informed that I'm scheduled for 2 psychiatric evaluations in Missoula over the next 2 months, "if you're going to cooperate". I was not told how or even if I'm allowed to contact or see my daughter. During this 3 months untold amounts of physical, sexual, and emotional abuse will happen to my little girl in a home where her genitals are touched daily, she is not allowed a tooth brush or bed and she's allowed to eat when she sneaks food or mom feels like feeding her. Her life will be completely turned inside out and upside down. Her sense of security, believing she can be protected has been stripped from her by the actions of one social worker who chose to investigate me when ALL evidence points to the abusive parent she placed my daughter with.

About a month ago I testified in support of House Human Services Committee on HB 90 and I believe what my poor little girl is going through is in retaliation for my testimony there. There is no other logical explanation outside of a rogue social worker on a personal vendetta.?

I'm sorry my words may be disjointed and scattered. My baby girl, my life was just torn from me today by a social worker with either no clue what's going on or a vendetta. Her precious life hangs in the balance of what one completely inept or malicious (?) social worker decides to write and show the judge with absolutely no fear of retaliation or shred of accountability. I'm begging you to please help my little girl and all the other children who become the victims of real abuse from CPS. What my little [redacted] is enduring now is something she may never recover from. Please support any bill that brings accountability and transparency to CPS.

Thank you for your time and consideration. Please reach out to me if I can further help you, or if you can help my little girl.

Dave Kesler III
54 Black Pine rd.
Philipsburg, Mt. 59858
406.491.2650

Date: 11/6/20

Progress Report as requested by Dave Kesler
CC: Department of Child and Family Services

DEMOGRAPHICS

CLIENT NAME: [redacted]	**INTAKE DATE:** 1/20/20
CURRENT ADDRESS: 54 Black Pine Rd Philipsburg, MT 59858	**PHONE:** 406-491-2650
DATE OF BIRTH: [redacted]	**MARITAL STATUS:** Single
NATION/TRIBE/ETHNICITY: White	**REFERRAL SOURCE:** Dad
REFERRAL NAME: Dave Kesler	**EMERGENY PHONE:** 406-491-2650

PRESENTING PROBLEM (referral, current symptoms): [redacted] is 7-year-old female living primarily with her dad in Philipsburg, MT with weekend visits at her mom Wendy's home in Roundup, MT. She is a bright, well-groomed young lady who plays easily and is quick to open up to this therapist. [redacted] says that she loves animals, hunting and fishing and raises her own chickens to sell the eggs. [redacted]'s parents have been in a custody battle since their divorce and there have been a significant number of reports to the Department of Child and Family Services and court hearing due to accusations of child abuse between the parents. [redacted] was initially brought to see this therapist by her dad after she had been seeing Heidi Morris in Missoula, MT following [redacted]'s forensic interview related to concerns of psychological abuse. [redacted] told this therapist that her mom hits her, hurts her, and makes her tell lies. She specifically said that her mom told her to put a gun to her head and kill herself.

DIAGNOSIS CODE: F43.22, Adjustment Disorder

CLINICIAN'S ASSESSMENT AND RECOMMENDATIONS SECTION: [redacted] has been seeing this therapist every other week since January 2020. She appears very bright and has excellent communication skills. [redacted] regularly reports to this therapist that her mom hurts her, and she does not want to have to go to her moms, she never reports concerns about her dad even when asked. This therapist has spoken to Wendy on several occasions and the accusations are denied. This therapist has also made several reports to Department of Child and Family Services as a mandatory reporter of child abuse. It is concerning to this therapist that the volatile custody battle between the parents is causing psychological harm to [redacted] and it is recommended that either further investigation be conducted or a psychological evaluation of [redacted] be performed to make a determination of what is in the best interest of the child in this case.

Montana State Legislature

2021 Session

Additional Documents

May include the following:

- **Business Report**
- **Roll Call -Attendance**
- **Standing Committee Reports**
- **Tabled Bills**
- **Fiscal Reports**
- **Roll Call Votes**
- **Informational Item's**
- **Witness Statements**
- **Visitor Register**
- **Any other type of documents such as:**

  Petitions, Pamphlets, Leaflets, Brochures, Emails, all documents given to Committee Secretary 24 hours after the meeting adjourned.

The original exhibit/items are on file at the Montana Historical Society and may be viewed there.

Montana Historical Society Archives, 225 N. Roberts, Helena, MT 59620-1201
Phone (406) 444-4774.
E-Document Specialist Susie Hamilton

BUSINESS REPORT

MONTANA HOUSE OF REPRESENTATIVES
67th LEGISLATURE - REGULAR SESSION

HOUSE JUDICIARY COMMITTEE

Date: Monday, February 22, 2021 **Time:** 7:00 AM
Place: Capitol **Room:** 137

BILLS and RESOLUTIONS HEARD:

HB 393 - Revise laws related to amendment of a parenting plan due to change in residence - Rep. Jane Gillette (R)
HB 427 - Provide for youth health protection - Rep. John Fuller (R)
HB 430 - Revise landlord tenant laws during emergency - Rep. Kathy Whitman (R)
HB 435 - Generally revise civil liability laws for government - Rep. Bill Mercer (R)
HB 436 - Generally revise firearms laws - Rep. Scot Kerns (R)
HB 439 - Revise landlord tenant laws - Rep. Steven Galloway (R)
HB 449 - Revise pretrial release laws involving electronic monitoring - Rep. Frank Garner (R)
HB 451 - Generally revise time served requirements - Rep. Robert Farris-Olsen (D)
HB 459 - Provide for certification of CPS workers with direct contact with children - Rep. Dennis Lenz (R)
HB 463 - Revise timeline for restriction on gift instrument or instrument of donor intent - Rep. Jeremy Trebas (R)
HB 478 - Generally revise DUI laws - Rep. Derek Harvey (D)
HB 499 - Revise child abuse and neglect laws regarding reasonable efforts - Rep. Jeremy Trebas (R)
HB 501 - Generally revise criminal procedure and criminal laws - Rep. Jeremy Trebas (R)
HB 502 - Create exemption from child-placement licensure requirements - Rep. Lola Sheldon-Galloway (R)
HB 503 - Revise laws relating to child protective services hearings - Rep. Dennis Lenz (R)
HB 504 - Generally revise firearms and weapons laws - Rep. Casey Knudsen (R)
HB 509 - Revising robocall fines - Rep. Danny Tenenbaum (D)
HB 515 - Generally revise laws relating to child and family services - Rep. Jeremy Trebas (R)
HB 517 - Revise penalties related to underage marijuana possession and use - Rep. Bill Mercer (R)
HB 519 - Revise laws regarding parenting time - Rep. Katie Zolnikov (R)

EXECUTIVE ACTION TAKEN:

HB 515 - Do Pass
HB 436 - Do Pass
HB 478- Do Pass
HB 427- Do Pass
HB 430 - Do Pass
HB 517 - Do Pass
HB 435 - Do Pass
HB 393 - Do Pass
HB 459 - Do Pass
HB 503 - Do Pass
HB 509 - Do Pass
HB 451 - Do Pass
HB 439 - Do Pass
HB 502 - Do Pass
HB 504 - Do Pass
HB 463 - Do Pass

Comments:

REP. Barry Usher, Chair

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE: 2/22/21

NAME	PRESENT	ABSENT/EXCUSED
REP. USHER, CHAIR	✓	
REP. AMY REGIER, VICE CHAIR	✓	
REP. KELKER, VICE CHAIR	✓	
REP. BERGLEE	✓	
REP. BISHOP	✓	
REP. CARLSON	✓	
REP. FARRIS-OLSEN	✓	
REP. FLEMING	✓	
REP. FRANCE	✓	
REP. GILLETTE	✓	
REP. HAWK	✓	
REP. JEDEDIAH HINKLE	✓	
REP. LENZ	✓	
REP. LER	✓	
REP. PHALEN	✓	
REP. SKEES	✓	
REP. STAFMAN	✓	
REP. STROMSWOLD	✓	
REP. TENENBAUM	✓	

19 MEMBERS

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 459** (first reading copy -- white) **do pass.**

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 14, No 5
Fiscal Note Required __

HB0459001SC.hlc

2.22.21 JR 1:58pm

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 436** (first reading copy -- white) **do pass**.

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 12, No 7
Fiscal Note Required __

HB0436001SC.hlc

2.22.21 1:47pm

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 478** (first reading copy -- white) **do pass**.

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 17, No 0
Fiscal Note Required __

HB0478001SC.hlc

2.22.21 TR 1:46pm

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 427** (first reading copy -- white) **do pass.**

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 11, No 8
Fiscal Note Required __

HB0427001SC.hlc

2.22.21 1:47pm

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 430** (first reading copy -- white) **do pass.**

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 12, No 7
Fiscal Note Required __

HB0430001SC.hlc

2.22.21
TR 1:46pm

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 517** (first reading copy -- white) **do pass.**

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 12, No 7
Fiscal Note Required __

HB0517001SC.hlc

2.22.21
TR 1:59PM

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 435** (first reading copy -- white) **do pass.**

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 12, No 7
Fiscal Note Required __

HB0435001SC.hlc

2-22-21 SR 1:57pm

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 393** (first reading copy -- white) **do pass**.

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 16, No 1
Fiscal Note Required __

HB0393001SC.hlc

2.22.21
OR 1:12pm

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 509** (first reading copy -- white) **do pass.**

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 19, No 0
Fiscal Note Required __

HB0509001SC.hlc

2.22.21 JR 1:59pm

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 451** (first reading copy -- white) **do pass.**

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 19, No 0
Fiscal Note Required __

HB0451001SC.hlc

2.22.21
JA 1:13pm

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 439** (first reading copy -- white) **do pass**.

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 12, No 7
Fiscal Note Required __

HB0439001SC.hlc

2.22.21
12:15pm

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 502** (first reading copy -- white) **do pass.**

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 12, No 7
Fiscal Note Required __

HB0502001SC.hlc

2.22.21 Th 1:17pm

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 504** (first reading copy -- white) **do pass.**

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 12, No 7
Fiscal Note Required __

HB0504001SC.hlc

2.23.21 SR 11:06

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 463** (first reading copy -- white) **do pass**.

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 19, No 0
Fiscal Note Required __

HB0463001SC.hlc

2-23-21
SR 11:07 AM

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 503** (first reading copy -- white) **do pass**.

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 19, No 0
Fiscal Note Required __

HB0503001SC.hlc

2.22.21 SR 1:59pm

HOUSE STANDING COMMITTEE REPORT

February 22, 2021

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 515** (first reading copy -- white) **do pass**.

Signed: _____
Representative Barry Usher, Chair

- END -

Committee Vote:
Yes 12, No 7
Fiscal Note Required __

HB0515001SC.hlc

2.25.21 JR 11:09 AM

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 430 DATE 2/22/21

MOTION Do Pass

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR		✓	
REP. CARLSON	✓		
REP. STROMSWOLD	✓		
REP. BERGLEE	✓		
REP. PHALEN	✓		
REP. FLEMING	✓		
REP. STAFMAN		✓	
REP. LENZ	✓		
REP. GILLETTE	✓		
REP. LER	✓		
REP. TENENBAUM		✓	
REP. BISHOP		✓	
REP. J. HINKLE	✓		✓
REP. HAWK		✓	
REP. SKEES	✓		
REP. FARRIS-OLSEN		✓	
REP. FRANCE		✓	
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 427 DATE 2/22/21

MOTION Do Pass

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR		✓	
REP. CARLSON	✓		
REP. STROMSWOLD		✓	
REP. BERGLEE	✓		
REP. PHALEN	✓		
REP. FLEMING	✓		
REP. STAFMAN		✓	
REP. LENZ	✓		
REP. GILLETTE	✓		
REP. LER	✓		
REP. TENENBAUM		✓	
REP. BISHOP		✓	
REP. J. HINKLE	✓		✓
REP. HAWK		✓	
REP. SKEES	✓		
REP. FARRIS-OLSEN		✓	
REP. FRANCE		✓	
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 427 DATE 2/22/21

MOTION Be Tabled

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR		✓	
REP. KELKER, VICE CHAIR	✓		
REP. CARLSON		✓	
REP. STROMSWOLD	✓		
REP. BERGLEE		✓	
REP. PHALEN		✓	
REP. FLEMING		✓	
REP. STAFMAN	✓		
REP. LENZ		✓	
REP. GILLETTE		✓	
REP. LER		✓	
REP. TENENBAUM	✓		
REP. BISHOP	✓		
REP. J. HINKLE		✓	✓
REP. HAWK	✓		
REP. SKEES		✓	
REP. FARRIS-OLSEN	✓		
REP. FRANCE	✓		
REP. USHER, CHAIR		✓	

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 436 DATE 2/22/21

MOTION Do Pass

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR		✓	
REP. CARLSON	✓		
REP. STROMSWOLD	✓		
REP. BERGLEE	✓		
REP. PHALEN	✓		
REP. FLEMING	✓		
REP. STAFMAN		✓	
REP. LENZ	✓		
REP. GILLETTE	✓		
REP. LER	✓		
REP. TENENBAUM		✓	
REP. BISHOP		✓	
REP. J. HINKLE	✓		✓
REP. HAWK		✓	
REP. SKEES	✓		
REP. FARRIS-OLSEN		✓	
REP. FRANCE		✓	
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 502 DATE 2/22/21

MOTION Do Pass

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR		✓	
REP. CARLSON	✓		
REP. STROMSWOLD	✓		
REP. BERGLEE	✓		
REP. PHALEN	✓		
REP. FLEMING	✓		
REP. STAFMAN		✓	
REP. LENZ	✓		
REP. GILLETTE	✓		✓
REP. LER	✓		
REP. TENENBAUM		✓	
REP. BISHOP		✓	
REP. J. HINKLE	✓		✓
REP. HAWK		✓	
REP. SKEES	✓		
REP. FARRIS-OLSEN		✓	
REP. FRANCE		✓	
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 439 DATE 2/22/21

MOTION Do Pass

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR		✓	
REP. CARLSON	✓		
REP. STROMSWOLD	✓		
REP. BERGLEE	✓		
REP. PHALEN	✓		
REP. FLEMING	✓		
REP. STAFMAN		✓	
REP. LENZ	✓		
REP. GILLETTE	✓		✓
REP. LER	✓		
REP. TENENBAUM		✓	
REP. BISHOP		✓	
REP. J. HINKLE	✓		
REP. HAWK		✓	
REP. SKEES	✓		
REP. FARRIS-OLSEN		✓	
REP. FRANCE		✓	
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 509 DATE 2/22/21

MOTION Do Pass

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR	✓		
REP. CARLSON	✓		
REP. STROMSWOLD	✓		
REP. BERGLEE	✓		
REP. PHALEN	✓		
REP. FLEMING	✓		
REP. STAFMAN	✓		
REP. LENZ	✓		✓
REP. GILLETTE	✓		
REP. LER	✓		
REP. TENENBAUM	✓		
REP. BISHOP	✓		
REP. J. HINKLE	✓		✓
REP. HAWK	✓		
REP. SKEES	✓		
REP. FARRIS-OLSEN	✓		
REP. FRANCE	✓		
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 509 DATE 2/22/21

MOTION Be Tabled

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR		✓	
REP. CARLSON		✓	
REP. STROMSWOLD	✓		
REP. BERGLEE	✓		
REP. PHALEN	✓		
REP. FLEMING		✓	
REP. STAFMAN		✓	
REP. LENZ	✓		✓
REP. GILLETTE		✓	
REP. LER		✓	
REP. TENENBAUM		✓	
REP. BISHOP		✓	
REP. J. HINKLE	✓		✓
REP. HAWK		✓	
REP. SKEES	✓		
REP. FARRIS-OLSEN		✓	
REP. FRANCE		✓	
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 503 DATE 2/22/21

MOTION Do Pass

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR	✓		
REP. CARLSON	✓		
REP. STROMSWOLD	✓		
REP. BERGLEE	✓		
REP. PHALEN	✓		
REP. FLEMING	✓		
REP. STAFMAN	✓		
REP. LENZ	✓		
REP. GILLETTE	✓		
REP. LER	✓		
REP. TENENBAUM	✓		
REP. BISHOP	✓		
REP. J. HINKLE	✓		✓
REP. HAWK	✓		
REP. SKEES	✓		
REP. FARRIS-OLSEN	✓		
REP. FRANCE	✓		
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 459 DATE 2/22/21

MOTION Do Pass

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR		✓	
REP. CARLSON	✓		
REP. STROMSWOLD	✓		
REP. BERGLEE	✓		
REP. PHALEN	✓		
REP. FLEMING	✓		
REP. STAFMAN		✓	
REP. LENZ	✓		
REP. GILLETTE	✓		
REP. LER	✓		
REP. TENENBAUM	✓		
REP. BISHOP		✓	
REP. J. HINKLE	✓		
REP. HAWK	✓		
REP. SKEES	✓		
REP. FARRIS-OLSEN		✓	
REP. FRANCE		✓	
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 435 DATE 2/22/21

MOTION Do Pass

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR		✓	
REP. CARLSON	✓		
REP. STROMSWOLD	✓		
REP. BERGLEE	✓		
REP. PHALEN	✓		
REP. FLEMING	✓		
REP. STAFMAN		✓	
REP. LENZ	✓		
REP. GILLETTE	✓		
REP. LER	✓		
REP. TENENBAUM		✓	
REP. BISHOP		✓	
REP. J. HINKLE	✓		✓
REP. HAWK		✓	
REP. SKEES	✓		
REP. FARRIS-OLSEN		✓	
REP. FRANCE		✓	
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 517 DATE 2/22/21

MOTION Do Pass

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR		✓	
REP. CARLSON	✓		
REP. STROMSWOLD	✓		
REP. BERGLEE	✓		
REP. PHALEN	✓		
REP. FLEMING	✓		
REP. STAFMAN		✓	
REP. LENZ	✓		
REP. GILLETTE	✓		
REP. LER	✓		
REP. TENENBAUM		✓	✓
REP. BISHOP		✓	
REP. J. HINKLE	✓		✓
REP. HAWK		✓	
REP. SKEES	✓		✓
REP. FARRIS-OLSEN		✓	
REP. FRANCE		✓	
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 515 DATE 2/22/21

MOTION Do Pass

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR		✓	
REP. CARLSON	✓		✓
REP. STROMSWOLD	✓		
REP. BERGLEE	✓		✓
REP. PHALEN	✓		
REP. FLEMING	✓		
REP. STAFMAN		✓	✓
REP. LENZ	✓		✓
REP. GILLETTE	✓		✓
REP. LER	✓		✓
REP. TENENBAUM		✓	✓
REP. BISHOP		✓	
REP. J. HINKLE	✓		
REP. HAWK		✓	
REP. SKEES	✓		✓
REP. FARRIS-OLSEN		✓	✓
REP. FRANCE		✓	
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 515 DATE 2/22/21

MOTION Be Tabled

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR		✓	
REP. KELKER, VICE CHAIR	✓		
REP. CARLSON		✓	✓
REP. STROMSWOLD		✓	
REP. BERGLEE		✓	✓
REP. PHALEN		✓	
REP. FLEMING		✓	
REP. STAFMAN	✓		✓
REP. LENZ		✓	✓
REP. GILLETTE		✓	✓
REP. LER		✓	
REP. TENENBAUM	✓		✓
REP. BISHOP	✓		
REP. J. HINKLE		✓	
REP. HAWK	✓		
REP. SKEES		✓	✓
REP. FARRIS-OLSEN	✓		✓
REP. FRANCE	✓		
REP. USHER, CHAIR		✓	

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

BILL NUMBER HB 504 DATE 2/22/21

MOTION Do Pass

NAME	AYE	NO	PROXY
REP. AMY REGIER, VICE CHAIR	✓		
REP. KELKER, VICE CHAIR		✓	
REP. CARLSON	✓		
REP. STROMSWOLD	✓		
REP. BERGLEE	✓		✓
REP. PHALEN	✓		✓
REP. FLEMING	✓		
REP. STAFMAN		✓	
REP. LENZ	✓		✓
REP. GILLETTE	✓		✓
REP. LER	✓		✓
REP. TENENBAUM		✓	✓
REP. BISHOP		✓	
REP. J. HINKLE	✓		✓
REP. HAWK		✓	
REP. SKEES	✓		✓
REP. FARRIS-OLSEN		✓	✓
REP. FRANCE		✓	
REP. USHER, CHAIR	✓		

19 MEMBERS

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 67TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. Kelker.

PLEASE USE PEN

BILL	MOTION (Include AMENDMENT #)	AYE	NO
HB 517	Do Pass		X
HB 435	Do Pass		X
~~HB 393~~	~~Do Pass~~		
HB 504	Do Pass		X
HB 463	Do Pass	X	
HB 515	Be tabled	X	
HB 515	Do Pass		X

BILL	MOTION (Include AMENDMENT #)	AYE	NO

I authorize my vote to be matched with that of Rep. Kelker for any amendments proposed on this date.

Rep. _____ Rep. Danny Tenenbaum 2/22/21

(Signature) (Print Name) (Meeting Date)

Rep. Tenenbaum

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 67TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. Kelker.

PLEASE USE PEN

BILL	MOTION (Include AMENDMENT #)	AYE	NO
HB 515	Be Tabled	X	
HB 515	Do Pass		X

BILL	MOTION (Include AMENDMENT #)	AYE	NO

I authorize my vote to be matched with that of Rep. Kelker for any amendments proposed on this date.

Rep. _____ Rep. Stafman 2/22/21

(Signature) (Print Name) (Meeting Date)

Rep. Stafman

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 67TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. Kelker.

PLEASE USE PEN

BILL	MOTION (Include AMENDMENT #)	AYE	NO
HB 504	Do Pass		X
HB 463	Do Pass	X	
HB 515	Be Tabled	X	
HB 515	Do Pass		X

BILL	MOTION (Include AMENDMENT #)	AYE	NO

I authorize my vote to be matched with that of Rep. Kelker for any amendments proposed on this date.

Rep. Signed via email (Signature) Rep. Farris-Olsen (Print Name) 2/22/21 (Meeting Date)

Rep. Farris-Olsen

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 67TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. Regier.

BILL	AYE	NO
HB517	✓	
HB 435	✓	
HB 503	✓	
HB459	✓	
table HB509	✓	
HB509	✓	
HB 451	✓	
HB 502	✓	
HB 436	✓	
Motion to table HB427		✓
HB 427	✓	

BILL	AYE	NO
HB 430	✓	
HB 504	✓	

I authorize my vote to be matched with that of Rep. _____ for any amendments proposed on this date.

Rep. Jedediah Hinkle (Signature) Date 2/22/21

Rep. Hinkle

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 67TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. Regier.

BILL	AYE	NO
HB504	✓	
HB460	✓	
Tabled HB515		✓
HB515	✓	

BILL	AYE	NO

I authorize my vote to be matched with that of Rep. A. Regier for any amendments proposed on this date.

Rep. Ler
(Signature)

Date 2/22/21

Rep. Ler

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED
COMMITTEE PROXY
67TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. A. Regier.

BILL	AYE	NO
HB 460	✓	
Table HB 515		✓
HB 515	✓	

BILL	AYE	NO

I authorize my vote to be matched with that of Rep. A. Regier for any amendments proposed on this date.

Rep. Jennifer Carlson (Signature)

Date 2/22/21

Rep. Carlson

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED
COMMITTEE PROXY
67TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. Usher.

BILL	AYE	NO
HB504	✓	
HB460	✓	
HB 515	✓	

BILL	AYE	NO

I authorize my vote to be matched with that of Rep. Usher for any amendments proposed on this date.

Rep. Bob Phalen
(Signature)

Date 2/22/21

Rep. Phalen

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED
COMMITTEE PROXY
67TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. A. Regier.

BILL	AYE	NO
HB 504	✓	
HB 460	✓	
Table HB 515		✓
HB 515	✓	

BILL	AYE	NO

I authorize my vote to be matched with that of Rep. Ulsher for any amendments proposed on this date.

Rep. [signature] Date 2/22/21

(Signature)

Rep. Berglee

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 67TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. Regier.

BILL	AYE	NO
HB517	✓	
HB504	✓	
HB460	✓	
Table HB515		✓
HB515	✓	

BILL	AYE	NO

I authorize my vote to be matched with that of Rep. A. Regier for any amendments proposed on this date.

Rep. _____ Date 2/22/21
(Signature)

Rep. Skees

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 67TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. A. Regier.

PLEASE USE PEN

BILL	MOTION (Include AMENDMENT #)	AYE	NO
HB 439	Do Pass	✓	
HB502	Do Pass	✓	
HB504	Do Pass	✓	
HB463	Do Pass	✓	
HB515	Table HB515		✓
HB515	Do Pass	✓	

BILL	MOTION (Include AMENDMENT #)	AYE	NO

I authorize my vote to be matched with that of Rep. A. Regier for any amendments proposed on this date.

Rep. _____ S. G. Gillette 2/22/11
(Signature) (Print Name) (Meeting Date)

Rep. Gillette

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED
COMMITTEE PROXY
67TH LEGISLATIVE SESSION

I request to be excused from the Judiciary Committee.

I desire to leave my proxy vote with Rep. Regier.

BILL	AYE	NO
table HB 509	✓	
HB509	✓	
HB 451	✓	
HB 504	✓	
HB 403	✓	
Table HB515		✓
HB515	✓	

BILL	AYE	NO

I authorize my vote to be matched with that of Rep. A. Regier for any amendments proposed on this date.

Rep. _____ Date 2/22/21
(Signature)

Rep. Lenz

Montana State Legislature

WITNESS STATEMENTS

The following is an assortment of documents that are

witness statements.

[A witness statement is a signed document recording the evidence of a witness.

A definition "a written statement signed by a person which contains the evidence which that person would be allowed to give orally".]

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Sunday, February 21, 2021 8:01 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-519: Revise laws regarding parenting time 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-21-21 08:01

Details:
Bill: HB-519: Revise laws regarding parenting time 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Thomas Elpel
Email: thomasjelpel@gmail.com
Phone: (406) 685-3222
City, State: Pony, MT
Written Statement: I support HB 519. Custody plans often favor either the mother, or whichever party has the most money to spend on attorneys. A plan in the best interest of the child must inherently give equal consideration to each parent.
Files:
Testify via Zoom: No
Zoom Method: N/A

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Sunday, February 21, 2021 9:18 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-519: Revise laws regarding parenting time 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-21-21 09:17

Details:
Bill: HB-519: Revise laws regarding parenting time 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Benjamin Francis Padilla Jr
Email: Beelk23@gmail.com
Phone: (406) 581-8863
City, State: Three Forks MT
Written Statement: My name is Benjamin Francis Padilla Jr. in July of 2016 my wife and I split up. It took a year and a half to establish a parenting plan. I asked for 50/50 since we both made the children, care for them, and love them. We went to multiple mediations, some over 10 hours long. This process cost tens of thousands of dollars on each side. This is money that could have been spent on the children instead of going to the lawyers and mediators. This resulted in me getting less time with the children than what I wanted. The amount of child support I have been paying has made it very difficult to pay my bills and provide a roof over the children's heads. I have had to work multiple jobs to do so. Given that she has the children more and is considered the custodial parent, she feels this gives her the right to exclude me on many things. I feel it would be better on the children and in their best interest to have equal time with both parents. I am in favor of HB-519.
Files:
Testify via Zoom: No
Zoom Method: N/A

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Sunday, February 21, 2021 10:57 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-515: Generally revise laws relating to child and family services 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-21-21 10:57

Details:
Bill: HB-515: Generally revise laws relating to child and family services 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Alyssa M Landsverk
Email: guidos1stave@gmail.com
Phone: (406) 860-7650
City, State: Laurel, MT
Written Statement: There needs to be a clear definition of imminent danger when children are in consideration for removal. My children were removed while there was no immediate threat. The person identified as a threat was already arrested and in jail. When I tried to get further I formation from the caseworker, I was lied to and threatened. When I pointed out the false information that I was being given, the caseworker who was in her early twenties retaliated by putting my children in her vehicle and trapping us in a faulty system for 90 days. We were traumatized. Our case proved to be unfounded and was dissolved but there needs to be a higher standard of evidence before these removals.
Files:
Testify via Zoom: Yes
Zoom Method: Phone

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Saturday, February 20, 2021 10:03 PM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-515: Generally revise laws relating to child and family services 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-20-21 22:03

Details:
Bill: HB-515: Generally revise laws relating to child and family services 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: Yes
Organization: My 8yr old daughter
Name: Dave Kesler III
Email: wiley454@yahoo.com
Phone: (406) 491-2650
City, State: Philipsburg
Written Statement: My name is Dave Kesler III. I'm in support of this and all bills that bring regulation and transparency to the CPS system. HB-515 would have prevented the hellish nightmare my little second grade daughter and I are living right now. (explained below) My precious little girl was removed from my care today with zero "reason to believe any child is in immediate or apparent danger of harm", zero ex parte court order or even court involvement or knowledge, zero effort to maintain the most peaceful status of her life. My little 8yr old daughter is being forced to live in terror with her mother, her abuser. There was zero effort to institute helping programs to keep our life here in her childhood home consistent as HB-515 defines. Her life, sense of security, safety and stability have been gutted at the tender age of 8.

I was awarded full custody of my little girl in 2017 with her mom having weekend visitations. There have been no complaints or problems with my parenting since 2017. My now 8yr old daughter has been involved in the CPS system for almost all of her life. Her Mother has been investigated roughly 40 times, reported by mainly mandatory reporters, counselors, doctors, etc. for abusing her ranging from bruises, telling her she hates half of her (the half that's me), involving her in child pornography, still wiping her bottom at 8yrs old, having the man who raped mom unconscious babysit our daughter, to instructing her how, when, and where to put the gun to her head to commit suicide at 5 yrs old.

In November of 2020 My daughter's counselor wrote a letter to CPS stating in part, "Kelly regularly reports to this therapist that her mom hurts her, and she does not want to have to go to her mom's, she never reports concerns about her dad even when asked." About 6 weeks ago CPS worker Lyndsee Angelo and another man pulled my little girl from class and interviewed her without my consent. During the interview Lyndsee called me and I went to the school immediately. Upon arrival I found my daughter crying in a room with Lyndsee and the man, between her and the door. She ran to me and hugged me crying in fear. I tried to calm her down, walked her back to her class and went back to Lyndsee and the interview. I was told I was being investigated for psychologically abusing my little girl. During my interview Lyndsee brought up a psych eval that was done in about 2015 which said nothing bad about my parenting and has already been seen by the court, litigated, and then when my ex-wife lost custody in the divorce it went to the State Supreme Court where the judge's ruling was upheld. I offered more recent reports and evaluations, pictures of the house my ex-wife had lived in with our daughter at the same time as the report she cited. Lyndsee wasn't interested and declined. I asked if my home would be inspected as part of the investigation and was told it would. I offered right then to go do the inspection and was refused. For all intents and purposes I was basically told that she would use what she wanted from an almost 7yr old report and nothing more.

Today, Saturday Feb, 20 Lyndsee, the same male social worker and a police officer came to my home and she informed me that she was removing Kelly from my care and placing her with her mother, the abuser 350 miles away. This

removed my littler girl from every aspect of her life that's familiar and safe... her school, friends, ballet class, grandparents, father, her home, church, etc. I was told that I'll be appointed a public defender, but wasn't told who or when. I was told this will take at least 90 days after the judge grants their request to proceed. I was informed that I'm scheduled for 2 psychiatric evaluations in Missoula over the next 2 months, "If you're going to cooperate". I was not told how or even if I'm allowed to contact or see my daughter. During this 3 months untold amounts of physical, sexual, and emotional abuse will happen to my little girl in a home where her genitals are touched daily, she is not allowed a tooth brush or bed and she's allowed to eat when she sneaks food or mom feels like feeding her. Her (and my) life will be completely turned inside out and upside down. Her sense of security, believing she can be protected by a loving father has been stripped from her by the actions of one social worker who chose to investigate me when ALL evidence points to the abusive parent she placed my daughter with.

About a month ago I testified in support of House Human Services Committee on HB 90 and I believe what my poor little girl is going through is in retaliation for my testimony there. There is no other logical explanation outside of a rogue social worker on a personal vendetta.?

I'm sorry my words may be disjointed and scattered. My baby girl, my life was just torn from me today by a social worker with either no clue what's going on or a vendetta. Her precious life hangs in the balance of what one completely inept or malicious (?) social worker decides to write and show the judge with absolutely no fear of retaliation or shred of accountability. I'm begging you to please help my little girl and all the other children who become the victims of real abuse from CPS. What my little Kelly is enduring now is something she may never recover from. Please support any bill that brings accountability and transparency to CPS.

Thank you for your time and consideration. Please reach out to me if I can further help you, or if you can help my little girl.

Dave Kesler III
54 Black Pine rd.
Philipsburg, Mt. 59858
406.491.2650
Files:
Testify via Zoom: Yes
Zoom Method: Phone

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Saturday, February 20, 2021 11:42 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-515: Generally revise laws relating to child and family services 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-20-21 11:41

Details:
Bill: HB-515: Generally revise laws relating to child and family services 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: Yes
Organization: Montana Child Protection Alliance
Name: Denise Johnson
Email: ron_denise@hotmail.com
Phone: (406) 545-9381
City, State: Billings
Written Statement: HB 515 Testimony – Imminent Danger My name is Denise Johnson and I am a board member with the Montana Child Protection Alliance (MCPA). Our non-profit formed 4 years ago out of an outcry from Montanan's who believed their rights as parents had been violated and that they had not been allowed due process with CFS. Over the course of 6+ years, we have heard from hundreds of families that have been hurt by our current system.
HB 519 is very important legislation in defining when it is appropriate to immediately remove children from their caregiver. Removals should only be a last resort because of the terrific trauma it creates for children and families, as well as their communities. The American Bar Association published a 30 page document which summarizes numerous studies and concurred: children generally suffer worse outcomes when removed from their homes than if they had been allowed to remain, even in marginal homes. Removing a child from their home is to a child what an adult would feel if sentenced to life in prison.
Additionally, there are risks in out-of-home placements. In fact, according to the Center for Missing and Exploited children, 88% of children rescued from trafficking are from our foster care system. Foster care is a pipeline to child trafficking.
Therefore, we need to be very careful in removing children, even from marginal homes. Based on the hundreds of families we've heard from, we are certain that MT is removing more children than necessary. This is also evident based on the fact that we rank 2nd in the nation for the number of children in foster care/capita and remove children at nearly 3 times the national rate. This might also explain, at least in part, why we rank highest in the nation for suicides. Removing children from their homes creates trauma that leads to long-term costs to these children and families personally and financially to our society.
Thus, HB 519.
Children should only be removed under 2 circumstances:
1) Imminent danger where the safety risk is so great that there is not time to get a warrant from a judge. This definition is needed to specify what is considered Imminent Danger.
2) After an investigation which then, based on this investigation, not simply an anonymous call, the judge issues a warrant. Removing a child without a warrant is violation of our 4th Amendment right.
In MT, I have yet to visit with a family who was served a warrant prior to removal. The department is completely bypassing this step by labeling all removals as "imminent danger". Can you imagine the police showing up at your home and demanding that you give them your television without a warrant? And yet, this is exactly what is happening to our children and families! We've even seen babies removed from hospitals without a warrant. How could there be imminent danger in a hospital?
Please support HB 519 in order to define imminent danger so that there is a higher standard of accountability prior to removing children while also ensuring that families, including yours are afforded their constitutional right against unreasonable searches and seizures of their children and property.

Thank you for your support and Montana children and families.
This is the link to the ABA research I referenced in my testimony:
https://www.americanbar.org/groups/litigation/committees/childrens-rights/trauma-caused-by-separation-of-children-from-parents/?fbclid=IwAR1Mw_ug57dgvnNmecxnahMH8AYloiK04TqvKIV210rDw9UqchVqhibVUDs
Files:
Testify via Zoom: Yes
Zoom Method: Computer

WITNESS STATEMENT

February 20, 2021

Dear members of the Judiciary Committee,

Thank you for the opportunity to express my support for HB 515. I have been involved with dependent neglect cases and family law for the past 4 years as a paralegal and am currently a law student at U of M. In my time being a part of this process, I have become increasingly aware of the need for reform. This bill is a huge step in the right direction.

I strongly feel revising Mont. Code Ann. 41-3-301 to define "imminent danger" is crucial for children and families. Proper investigation and implementation of preventative services is not only essential to the enforcement of the Family First Act, it is essential to acting in the best interests of Montana children. Countless studies have educated us about the permanent trauma caused for children when they are removed from their homes of origin by the government. Not only does an improper removal traumatize children and families, it becomes costly to the state and potentially invites further civil litigation, which is even more costly. Court ordered warrants can be issued for removal of children if a cps specialist is unsure if a situation meets the definition of imminent danger. Taking extra precautions such as this protects the department as well as children.

Thank you so much for your time.

Sincerely,

L Woodward

Lisa Woodward

2153 S. 14th St. W, Apt. C, Missoula, MT 59801 (406)208-9505 Lisa.woodward@umontana.edu

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Sunday, February 21, 2021 11:17 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-515: Generally revise laws relating to child and family services 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-21-21 11:17
Attachments: Letter for lc 0519-5-1.pdf

Details:
Bill: HB-515: Generally revise laws relating to child and family services 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Lisa Woodward
Email: lisa.woodward@umontana.edu
Phone: (406) 208-9505
City, State: Missoula, MT
Written Statement: Dear members of the Judiciary Committee,

Thank you for the opportunity to express my support for HB 515. I have been involved with dependent neglect cases and family law for the past 4 years as a paralegal and am currently a law student at U of M. In my time being a part of this process, I have become increasingly aware of the need for reform. This bill is a huge step in the right direction.

I strongly feel revising Mont. Code Ann. 41-3-301 to define "imminent danger" is crucial for children and families. Proper investigation and implementation of preventative services is not only essential to the enforcement of the Family First Act, it is essential to acting in the best interests of Montana children. Countless studies have educated us about the permanent trauma caused for children when they are removed from their homes of origin by the government. Not only does an improper removal traumatize children and families, it becomes costly to the state and potentially invites further civil litigation, which is even more costly. Court ordered warrants can be issued for removal of children if a cps specialist is unsure if a situation meets the definition of imminent danger. Taking extra precautions such as this protects the department as well as children.

Thank you so much for your time.
Files: Letter for lc 0519-5-1.pdf
Testify via Zoom: No
Zoom Method: N/A

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Saturday, February 20, 2021 10:36 PM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-503: Revise laws relating to child protective services hearings 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-20-21 22:35

Details:
Bill: HB-503: Revise laws relating to child protective services hearings 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: Yes
Organization: My 8yr old daughter
Name: Dave Kesler III
Email: wiley454@yahoo.com
Phone: (406) 491-2650
City, State: Philipsburg
Written Statement: My name is Dave Kesler III and I strongly support HB 503.

I was awarded full custody of my daughter in 2017, with Mom getting weekend visitation based in part in her involving our daughter in child pornography. In November 2020 My daughters counselor of over a year wrote a progress report on my daughter which said in part, "K. regularly reports to this therapist that her mom hurts her, and she does not want to have to go to her mom's, she never reports concerns about her dad even when asked." This report prompted Lyndsee Angelo with the Missoula office of CPS to start an investigation for psychological abuse on me, the dad roughly 6 weeks ago. Today, 2/20/21 Lyndsee, with a colleague and sheriff's deputy served me a paper and removed my daughter from my care. I was told it would be over 90 days while they investigate. Lyndsee removed my daughter from her entire life, her school, her family, grandparents, home, ballet class, friends, kittens and the life she has loved since birth and sent her 350 miles away to live with her Mom who has been investigated by CPS roughly 40 times. I was told I'd get an appointed attorney, but not who or when. I was not told if, when, or where a hearing would take place. I was not told if, how or when I could contact my little girl, who has rarely spent time away from me. The emotional, physical, and sexual abuse my poor little girl is going to endure for the next 90+ days could have been prevented if HB503 was in place now. CPS's actions were not warranted or justified and did not follow MCA or their own procedure policies.

I testified in support of HB 90 about a month ago and I feel that this hell my family is enduring now is a direct result of that.

Please help protect my little girl and all the other children CPS subjects to this horrendous abuse by supporting HB503. The psychological damage from these CPS abuses are immeasurably cruel. ANYTHING that curtails the abuse of power by CPS is a benefit to Montana kids.
Files:
Testify via Zoom: Yes
Zoom Method: Phone

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Sunday, February 21, 2021 10:51 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-499: Revise child abuse and neglect laws regarding reasonable efforts 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-21-21 10:50

Details:
Bill: HB-499: Revise child abuse and neglect laws regarding reasonable efforts 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Alyssa M Landsverk
Email: Guidos1stave@gmail.com
Phone: (406) 860-7650
City, State: Laurel, MT
Written Statement: Reasonable efforts absolutely must me made and more guidelines followed by caseworkers prior to removing a child or children from their home and unnecessarily traumatizing families.
Without a judge's ruling or approval, my children were removed based on my lack of understanding of the situation and reaction.
My children were removed as a power-play. After being threatened and lied to by the caseworker, I pointed out the false information and she put my children in her vehicle and took off, leaving me and my family devastated for 90 days and trapped in a faulty system.
Files:
Testify via Zoom: No
Zoom Method: N/A

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Saturday, February 20, 2021 8:41 PM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-499: Revise child abuse and neglect laws regarding reasonable efforts 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-20-21 20:41

Details:
Bill: HB-499: Revise child abuse and neglect laws regarding reasonable efforts 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: Yes
Organization: Montana Child Protection Alliance
Name: Denise Johnson
Email: ron_denise@hotmail.com
Phone: (406) 545-9381
City, State: Billings
Written Statement: HB 499 Testimony – Reasonable Efforts

My name is Denise Johnson and I am a board member with the Montana Child Protection Alliance (MCPA). Our non-profit formed 4 years ago out of an outcry from Montanan's who believed their rights as parents had been violated and that they had not been allowed due process with CFS. Over the course of 6+ years, we have heard from hundreds of families that have been hurt by our current system.

According to federal and state law, reasonable efforts are required to prevent removal or return of a child. In spite of this, many families do not believe they received any help to keep their family together. Services were not offered, communication was inadequate, timelines were uncertain, and they did not feel supported in their efforts to preserve or restore their family.

However, since "reasonable efforts" is not defined, it leaves this phrase open for opinion, bias, and confusion. This creates all kinds of problems:

- Families become entangled in a complex legal system.
- Attorneys don't contend for reasonable efforts for their clients even though it's the law.
- Judges have difficulty in ruling on whether this law has been applied.
- Federal funds can be denied if the threshold of reasonable efforts is not met.
- The state is at risk when the Supreme Court overturns lower court decisions.

o In one case, the SC reversed the district court's decision...2 ½ years after the baby was removed. There were absolutely NO WINNERS. The bio mom lost the first years of her child's life. The child lost the opportunity to bond with his mother. The foster family lost the child they thought they would be able to adopt. But worst, the child is traumatized by the whole mess.

o Link to that Supreme Court ruling Pg. 16 & 17 in particular:
https://juddocumentservice.mt.gov/getDocByCTrackId?DocId=273432

Although reasonable efforts will vary based on services available in each community, it is the law and efforts to support reasonable efforts is vital. This book written by a retired judge is also a great resource for case law regarding reasonable efforts. It looks intimidating but a short read: http://www.judgeleonardedwards.com/docs/reasonableefforts.pdf

Defining reasonable efforts will help MT to better comply with Family First which is to be implemented by Oct. 2021. It will also clarify the responsibility of the department and give families a better understanding of what they can expect.

Please support HB 599 to improve accountability and transparency within the department and give families better tools to help preserve their most precious asset...their family.
Files:
Testify via Zoom: Yes
Zoom Method: Computer

WITNESS STATEMENT

February 20, 2021

Dear members of the Judiciary Committee,

Thank you for the opportunity to express my support for HB 499. I have been involved with dependent neglect cases and family law for the past 4 years as a paralegal and am currently a law student at U of M. In my time being a part of this process, I have become increasingly aware of the need for reform. This bill is a huge step in the right direction. The language is reflective of the judicial opinion in *Santosky v. Kramer*, 455 U.S. 745, 102 S. Ct. 1388 (1982), and provides a great model for the ideals behind the concept thus far undefined in Montana statute.

I strongly feel revising Mont. Code Ann. 41-3-423 to define "reasonable efforts" is crucial not only for children and families, but for our state's judges as well. A clear definition allows judges to turn to statute when making decisions that will affect children for an entire lifetime. The clarity and inclusion of services will help produce more consistent judicial outcomes and align with the intentions of the Family First Act. Parents having services and support in statute helps protect the best interests of Montana children by enhancing the likelihood of proper interventions and care that will allow for the best-case scenario: reunification with a healthier and more stable family of origin.

Thank you so much for your time.

Sincerely,

L Woodward

Lisa Woodward

2153 S. 14th St. W, Apt. C, Missoula, MT 59801 (406)208-9505 Lisa.woodward@umontana.edu

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Sunday, February 21, 2021 11:02 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-459: Provide for certification of CPS workers with direct contact with children 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-21-21 11:02

Details:
Bill: HB-459: Provide for certification of CPS workers with direct contact with children 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Alyssa M Landsverk
Email: Guidos1stave@gmail.com
Phone: (406) 860-7650
City, State: Laurel, MT
Written Statement: My caseworker removed my children as a power play when I called her out for falsifying information. She was younger than me by ten years. As we sat at my kitchen table and she was presenting me with paperwork, she proceeded to brag about her love for drinking tall beers and partying. Not only was I was heartbroken and embarrassed by her unprofessionalism during a traumatizing experience for myself and my children, but she also appeared to be training another young lady during this beer party conversation. There must be higher levels of training, education, certification, and professionalism required for these workers dealing with children and families.
Files:
Testify via Zoom: Yes
Zoom Method: Phone

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Saturday, February 20, 2021 9:17 PM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-459: Provide for certification of CPS workers with direct contact with children 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-20-21 21:16

Details:
Bill: HB-459: Provide for certification of CPS workers with direct contact with children 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Dave Kesler III
Email: wiley454@yahoo.com
Phone: (406) 491-2650
City, State: Philipsburg, Mt.
Written Statement: My name is Dave Kesler III. I'm in support of this and all bills that bring regulation and transparency to the CPS system. With the right training, checks and balances and accountability of CPS workers, my little girl might not be living through the terror she's in right now.

I was awarded full custody of my little girl in 2017 with her mom having weekend visitations. There have been no complaints or problems with my parenting since then. My now 8yr old daughter has been involved in the CPS system for almost all of her life. Her Mother has been investigated roughly 40 times, reported by mainly mandatory reporters, counselors, doctors, etc. for abusing her ranging from bruises, telling her she hates half of her (the half that's me), involving her in child pornography, still wiping her bottom at 8yrs old, having the man who raped mom unconscious babysit our daughter, to instructing her how, when, and where to put the gun to her head to commit suicide at 5 yrs old. Several times in the past 7 years I have requested my daughter's records from CPS with answers all over the board but have not yet seen them. I've heard from Lyndsee Angelo in Missoula, "I've sent them twice, not going to do it again". From Jen Hoaroff in Butte/Anaconda, "You don't have a right to them. Keep asking, I'll call the cops." and from the head office in Helena, "You do not have a right to see any records on you or your daughter, I don't know where you got that idea."

In November of 2020 My daughter's counselor wrote a letter to CPS stating in part, "Kelly regularly reports to this therapist that her mom hurts her, and she does not want to have to go to her mom's, she never reports concerns about her dad even when asked." About 6 weeks ago CPS worker Lyndsee Angelo and another man pulled my little girl from class and interviewed her without my consent. During the interview Lyndsee called me and I went to the school immediately. Upon arrival I found my daughter crying in a room with Lyndsee and the man, between her and the door. She ran to me and hugged me crying in fear. I tried to calm her down, walked her back to her class and went back to Lyndsee and the interview. I was told I was being investigated for psychologically abusing my little girl. During my interview Lyndsee brought up a psych eval that was done in about 2015 which said nothing bad about my parenting and has already been seen by the court, litigated, and then when my ex-wife lost custody in the divorce it went to the State Supreme Court where the judge's ruling was upheld. I offered more recent reports and evaluations, pictures of the house my ex-wife had lived in with our daughter at the same time as the report she cited. Lyndsee wasn't interested and declined. I asked if my home would be inspected as part of the investigation and was told it would. I offered right then to go do the inspection and was refused. For all intents and purposes I was basically told that she would use what she wanted from an almost 7yr old report and nothing more.

Today, Saturday Feb, 20 Lyndsee, the same male social worker and a police officer came to my home and she informed me that she was removing Kelly from my care and placing her with her mother, the abuser 350 miles away. This removed my littler girl from every aspect of her life that's familiar and safe... her school, friends, ballet class, grandparents, father, her home, church, etc. I was told that I'll be appointed a public defender, but wasn't told who or when. I was told this will take at least 90 days after the judge grants their request to proceed. I was informed that I'm scheduled for 2 psychiatric evaluations in Missoula over the next 2 months, "If you're going to cooperate". I was not told how or even if I'm allowed to contact or see my daughter. During this 3 months untold amounts of physical, sexual, and emotional abuse will happen to my little girl in a home where her genitals are touched daily, she is not allowed a tooth brush or bed and she's allowed to eat when she sneaks food or mom feels like feeding her. Her life will be completely turned inside out and upside down. Her sense of security, believing she can be protected has been stripped from her by the actions of one social worker who chose to investigate me when ALL evidence points to the abusive parent she placed my daughter with.

About a month ago I testified in support of House Human Services Committee on HB 90 and I believe what my poor little girl is going through is in retaliation for my testimony there. There is no other logical explanation outside of a rogue social worker on a personal vendetta.?

I'm sorry my words may be disjointed and scattered. My baby girl, my life was just torn from me today by a social worker with either no clue what's going on or a vendetta. Her precious life hangs in the balance of what one completely inept or malicious (?) social worker decides to write and show the judge with absolutely no fear of retaliation or shred of accountability. I'm begging you to please help my little girl and all the other children who become the victims of real abuse from CPS. What my little Kelly is enduring now is something she may never recover from. Please support any bill that brings accountability and transparency to CPS.

Thank you for your time and consideration. Please reach out to me if I can further help you, or if you can help my little girl.

Dave Kesler III
54 Black Pine rd.
Philipsburg, Mt. 59858
406.491.2650
Files:
Testify via Zoom: No
Zoom Method: N/A

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Sunday, February 21, 2021 10:07 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-451: Generally revise time served requirements 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-21-21 10:07

Details:
Bill: HB-451: Generally revise time served requirements 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Laurie Little Dog
Email: LaurieLittleDog@gmail.com
Phone: (406) 308-3378
City, State: Bozeman, MT
Written Statement: My name is Laurie Little Dog and I stand in support of HB451. Time spent in residential treatment facilities should be credited to a person's sentencing because this time is aligned with what the the Corrections system is supposed to do, which is to rehabilitate persons for their return to society.
I view this bill as promoting public safety and encourage a "Yes" vote on HB 451.
Files:
Testify via Zoom: Yes
Zoom Method: Computer

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Sunday, February 21, 2021 10:46 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-435: Generally revise civil liability laws for government 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-21-21 10:45

Details:
Bill: HB-435: Generally revise civil liability laws for government 2021-02-22 07:00 AM - (H) Judiciary
Position: Opponent
Representing an Entity/Another Person: Yes
Organization: Opening Doors
Name: Josh Butterfly
Email: butterflyjosh4@gmail.com
Phone: (406) 217-6518
City, State: Great falls
Written Statement: This matter was already dealt with in sb65 that excluded government employees specifically the montana's department of corrections. The death count of state wards in the institutions throughout montana under the department of corrections. Is higher then was reported. Question that should be addressed is where did this funding go? As a tax payer and registered voter. Transparency is required not only for myself but for all persons who have loved ones incarcerated through the department of corrections. I strongly oppose this bill that will allow the department of corrections and sponsors to get away with murder and deceptive practice's.
Files:
Testify via Zoom: Yes
Zoom Method: Phone

WITNESS STATEMENT

MTSBA
Montana School Boards Association

ADVOCATING FOR EACH CHILD IN EVERY PUBLIC SCHOOL THROUGH SCHOOL BOARD LEADERSHIP

February 22, 2021

Please note, MTSBA will monitor discussion and amendments throughout the hearing process and may provide testimony before the committee reacting to such discussion or amendments.

Please also know that MTSBA staff are available to answer questions from the committee. You can reach individual members of our team using the contact information in the footer below.

MTSBA HB 435 Testimony

The Montana School Boards Association (MTSBA) supports HB 435. This bill would limit school district liability for exposure to COVID-19. Section 2 of HB 435 provides for cases in which a school district or other governmental entity would be liable, this would not include the specific cases described in Section 3:

1. a school district admitting students and up to six guests for each student to an extracurricular event including a graduation ceremony; or
2. a school district or unit of the university system conducting in-person instruction or extracurricular activities.

This bill would provide additional guideposts for school districts as they continue to manage school operations during a pandemic. MTSBA urges your support of HB 435.

Lance Melton
Executive Director
lmelton@mtsba.org
(406) 439-2180

Debra Silk
Associate Executive Director
dsilk@mtsba.org
(406) 439-3520

Emily Dean
Director of Advocacy
edean@mtsba.org
(406) 431-7389

Jule Walker
Field Services Specialist
jwalker@mtsba.org
(406) 971-5666

WITNESS STATEMENT

DATE: February 21, 2021

TO: House Judiciary

FROM: Al Smith, Montana Trial Lawyers, monttla@mt.net, 406-439-3124

RE: HB 435 - OPPOSED

The member attorneys of the Montana Trial Lawyers represent individual Montanans, their families and small businesses who have been injured or harmed by the actions or omissions of others. We work to assure that all Montanans are able to exercise their constitutional right of access to the courts to seek a "speedy remedy for every injury of person, property, or character" as guaranteed by Article II, Section 16 of the Montana Constitution.

We oppose HB 435 as an unnecessary abrogation and limitation of those rights. This bill is unneccessary, there has not been an explosion of COVID litigation – I'm aware of only two cases in Montana involving malpractice, nursing homes in the Flathead and Butte – and no cases naming governmental healthcare. I'm aware of several lawsuits by businesses and individuals challenging governmental actions, but I do not know the specifics of those suits. I do know that the definition of injury includes not only personal injury, but also injury to property: *27-1-106. Injury defined. (1) An injury is of two kinds: (a) to the person; and (b) to property.*

(2) An injury to property consists in ***depriving its owner of the benefit of it****, which is done by taking, withholding, deteriorating, or destroying it. Every other injury is an injury to the person.*

Our current law already provides protections for governmental entities and medical providers, which is why there have not been an explosion of COVID cases. Under current liability laws, governmental entities and medical providers are only required to do what is reasonable under the circumstances; thus, if they take reasonable steps, take responsibility, to protect workers, customers and patients, they will not face lawsuits.

HB 435 essentially says that governmental entities and providers do not have to act reasonably or responsibly, and they can act unreasonably or irresponsibly and still not face any lawsuit to hold them accountable for the harms they may cause. It is not responsible to give governmental entities immunity when they unreasonably or irresponsibly expose their workers and the public to COVID-19. It makes no sense that the main priority is to eliminate the rights of the public, workers, consumers and patients.

We do not see how providing immunity improves the health of our communities. If anything, this bill removes any confidence that it will be safe to enter or interact with governmental entities since they have no responsibility to follow reasonable safety precautions.

Let me go through the bill with some specific comments and concerns.

Page 2, line 14, Section 2, **Liability – this section makes it clear that** governmental entities **cannot be held liable for negligent acts or omissions PERIOD**. There is **no prerequisite of complying with any orders, guidelines, best practices**, etc – **NO NEGLIGENCE actions at all.** Negligence is acting, or failing to act, as a reasonable person would in similar circumstances. A simple example, a driver is going down the road and he looks at his phone and drifts into the other lane and hits an oncoming car – he is negligent, a reasonable person would be paying attention and staying in his legal traffic lane.

It's important to remember that to be successful, a plaintiff in a negligence action must prove: (1) a duty owed to the plaintiff; (2) a breach of that duty; (3) an injury was caused by the breach of duty; and (4) the damages caused by the injury. **With COVID, causation, is very difficult to prove, which is one reason so few COVID negligence suits have been filed.** "So, you say you caught COVID at the high school, did you visit any other public places in the two weeks prior to your COVID diagnosis – did you gather with any family or friends, go to a grocery store, the hardware store, a hair salon, any other places? You did? Sorry, I can't take the case because we can't prove you didn't get COVID from somewhere besides the high school."

This liability protection is for all "damages for injuries or death from or relating to exposure or potential exposure" - that means any injuries to business by a governmental entity consisting of ***"depriving its owner of the benefit of it [property]*** receive liability protections as they are "relating to exposure or potential exposure."

Page 2, Section 3, **Duty of care**, - Look closely at this section, do you see any duty of care in this section? I don't. No duty, no responsibility, just immunity unless grossly negligent.

Pages 3-4, **Liability of health care providers** This would allow any provider get immunity simply by claiming lack of "staffing" and "other resources" due to COVID. This is immunity for **all medical care, not just COVID care** – page 3, line 15. Legitimate arguments can be made under current law that what was done/not done were "reasonable under the circumstances." Subsection (e) starting on line 26 of page 3, gives a "COVID made me do it, or prevented me from doing it" get out of liability card for all governmental healthcare services. The concern with this sub-section is that it will be used with a summary judgment motion and the **affirmative defense in Section 5** to preclude any legitimate claims from going forward.

Page 4, Section 6 **Affirmative defense** – This section would provide **complete immunity** if governmental entities follow any recommended guidelines or regulations! Line 13-14 - "the

affirmative defense is a complete bar to any action relating to covid-19" - this **protects even gross negligence, willful and wanton misconduct, and intentional torts!** Under this section the individual or business trying to bring a covid-19 action would be kicked out of court on the assetion of a governmental entity that it took "reasonable measures" and a jury does not get to detemine if the governmental entity's actions were indeed "reasonable."

Page 4, **Section 6. Limitation on requirements**. This section provides that common sense COVID protections cannot be considered standard, responsible care. This makes it obvious that this bill has nothing to do with improving our community health, but only protects governmental entities that fail to act reasonably and responsibly.

All this bill does is provide unnecessary immunity, restricting or denying the rights of injured Montanans, and it does absolutely nothing to improve the health and safety of our communities.

COVID Cases as of January 20, 2021 – Montana

42 Total Cases
2 Exposure/Potential Exposure/Fear of Exposure Cases
Complaints regarding exposure, potential exposure, or fear of exposure

Consumer Cases		
Personal injury		0
Wrongful death (cruise ships)		0
Health/Medical		
Malpractice	0	
Wrongful death (nursing homes)		2
Labor & Employment		
Condition of employment (includes cases regarding lack of PPE and fear of covid exposure)	0	
TOTAL		**2**

The Full List

		January 20, 2021
Civil Rights	**19**	
Business closure/Stay-at-home order challenges		4
FOIA Disputes		1
Other	1	
Other public safety measures	9	
Voting	4	
Consumer Cases	**1**	
Non-education-related cancelations	1	
Education	**1**	
Request for refund	1	
Health/Medical		**2**
Wrongful death		2

Insurance		**1**
Labor & Employment		**7**
	Leaves of absence	1
	Other	1
	Unlawful termination	5
Misc Tort		**2**
	Other	2
Not Coded		**7**
Real Property		**2**
	Landlord/Tenant	2

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Sunday, February 21, 2021 11:35 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-435: Generally revise civil liability laws for government 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-21-21 11:34
Attachments: Executive Order 2-2020 and 3-2020.pdf; HB 435 Gmail - Follow up to inmate windows being welded shut at MSP.pdf; HB 435 Gmail - For public comment_ Highside windows must be opened and DOC must notify on apparent suicides and natural cause death.pdf; HB 435 Lack of reporting by MSP reported to DPHHS Response included in Gmail For public comment (follow-up) Fwd_ Lack of reporting Covid-19 at Department of Corrections facilities.pdf; HB435 Executive order only releases 8 inmates .pdf; HB435 Inmates die with covid in their systems Recycled Masks not PPE.pdf; HB435 is SB65 REINCARNATED Gmail to Fitzpatrick.pdf

Details:
Bill: HB-435: Generally revise civil liability laws for government 2021-02-22 07:00 AM - (H) Judiciary
Position: Opponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Laurie Little Dog
Email: LaurieLittleDog@gmail.com
Phone: (406) 308-3378
City, State: Bozeman, MT
Written Statement: My name is Laurie Little Dog and I rise in strong opposition to HB 435. I believe this to be a reincarnation of what Fitzpatrick amended out of SB65 last month when I raised objection to State agencies being protected from lawsuits stemming from their role in inmate deaths due to Covid-19. Please review the supporting documents and know that there is largely significant outcry about the Human Rights and Eighth Amendment violations that incarcerated persons have been subjected to at the hands of the Montana Department of Corrections, while being held at State correctional facilities, and secure contract facilities in Montana. Many have succumbed Covid-19 while in DOC custody while only 8 incarcerated persons were released as a result of Governor Bullock's April 1 Executive Order. House Bill 435 will keep inmates and their the families from holding the State accountable for Covid-related negligence and indifference to the rapid spread of the virus within facilities. Please vote NO on HB 435!
Files: Executive Order 2-2020 and 3-2020.pdf HB 435 Gmail - Follow up to inmate windows being welded shut at MSP.pdf HB 435 Gmail - For public comment_ Highside windows must be opened and DOC must notify on apparent suicides and natural cause death.pdf HB 435 Lack of reporting by MSP reported to DPHHS Response included in Gmail For public comment (follow-up) Fwd_ Lack of reporting Covid-19 at Department of Corrections facilities.pdf HB435 Executive order only releases 8 inmates .pdf HB435 Inmates die with covid in their systems Recycled Masks not PPE.pdf HB435 is SB65 REINCARNATED Gmail to Fitzpatrick.pdf Testify via Zoom: Yes Zoom Method: Computer

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Saturday, February 20, 2021 7:58 PM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-430: Revise landlord tenant laws during emergency 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-20-21 19:57

Details:
Bill: HB-430: Revise landlord tenant laws during emergency 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Sherrie L Featherly
Email: sherrie@montana.com
Phone: (406) 546-3615
City, State: Missoula
Written Statement: I'm writing in support of bill HB 430

I'm a licensed property manager and own and operate Missoula Property Management since 2001, we manage over 1800 units in Missoula. Our primary clients are not out-of-state investors or investment companies, the majority of our clients rely on the rental income to pay their mortgage or use it to provide for themselves or their families.

I'm concerned about the impact of an extended continuation of the federal eviction moratorium. Owners and managers of rental homes are dependent on rent collections to be able to perform maintenance on the homes and to meet monthly obligations like property taxes, insurance, and mortgage payments. Because of missed payments, some owners of single-family-rental homes face or will face liquidity issues. Because those rent streams are necessary for paying property management firms may experience the same liquidity issues. These liquidy issues also affect renters because important expenditures for items like maintenance and utilities come from those same rent streams.

I believe the same relief that goes to the tenant needs to be given to the property owners.
Files:
Testify via Zoom: No
Zoom Method: N/A

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Sunday, February 21, 2021 4:33 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-21-21 04:33

Details:
Bill: HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Anita Calbert
Email: bearwoman98@msn.com
Phone: (406) 498-0521
City, State: Whitehall, MT
Written Statement: I strongly support HB427. We can not allow our children to be pushed into something that could totally change their lives. This is not an issue of physical health it is a mental health issue. From articles I have read in many cases even adults who have surgery to change what God created them as end up becoming suicidal or severely depressed. Unfortunately our schools are making matters worse by pushing and promoting the LGBTQ agendas. We need you to stand up for protecting our children. Please I implore you stand up and protect our children as they can't always protect themselves. Thank you for your time.
Files:
Testify via Zoom: No
Zoom Method: N/A

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Saturday, February 20, 2021 8:37 PM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-20-21 20:36

Details:
Bill: HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary
Position: Opponent
Representing an Entity/Another Person: No
Organization: N/A
Name: lauren hansen
Email: laurenhansenandco@gmail.com
Phone: (406) 241-3119
City, State: Missoula
Written Statement: I am a member of the Board of Barbers and Cosmetologists. I am speaking as a member of the public and not in my board capacity.

HB 427 is a disgusting bill. I cannot believe that anyone would sponsor this bill. To think that the government is now going into the private room and getting between patients and their doctors is terrifying. I am curious if anyone who would vote to support this is ready to take on the responsibility for the harm that this will cause? Please do not let people who are afraid and uncomfortable with people who are different than them send our state back years in human rights.
Files:
Testify via Zoom: No
Zoom Method: N/A

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Friday, February 19, 2021 4:57 PM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-19-21 16:57

Details:
Bill: HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary
Position: Opponent
Representing an Entity/Another Person: No
Organization: N/A
Name: John Joseph Ewan
Email: dreamingmeat@gmail.com
Phone: (406) 823-0469
City, State: Missoula, MT
Written Statement: We've been through this.

Please stop trying to hurt my child. It's that simple. You do not know our circumstance. You've never met me, or him, or our doctors. You call this bill "protection" but it is the opposite. It is a direct threat to the well being of my child.

It is a direct threat to the well being of my child.

If you are concerned about the well being of my child or any other transgender child, then take the time to educate yourself on what life is like for them. Try to imagine what it is like to already struggle fitting in your own body, and a society that keeps them on the fringe, and then look at what you are doing to them by proposing bills that deny their rights to the medical care you take for granted. Just stop. Kill this bill.
Files:
Testify via Zoom: Yes
Zoom Method: Computer

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Friday, February 19, 2021 7:35 PM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-19-21 19:35

Details:
Bill: HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Erin Brewer
Email: brewerin@gmail.com
Phone: (345) 535-5236
City, State: Logan, Utah
Written Statement: Dear Committee Members, I was a trans kid So insistent, persistent and consistent that I was a boy that my teacher, Ms. Hicken at Howard R Driggs Elementary School referred me to the school psychologist for assessment.
The school psychologist noted that I wanted to be a boy.
Thankfully she did not affirm me.
She did not tell me that my self-hatred was valid, that my desire to run away from myself was something to be celebrated. She did not suggest I be put on puberty blockers to induce a developmental delay and put me on a pathway to dangerous cross-sex hormones and ultimately surgery.
Instead, she put me in a special group for kids who needed extra support and came up with some simple suggestions for my mom and teacher to help me manage my difficult feelings.
What the school psychologist didn't know at the time because I was so filled with shame and confusion was that the reason I was insisting I was a boy is that I believed it was the only way to keep myself from being sexually assaulted again.
In the summer between kindergarten and 1st grade I was violently assaulted and from that moment on, I blamed my girl-body for the assault. I was sure if I was a boy, that would never happen to me again.
It breaks my heart to imagine what my life would have been like if the school psychologist had told me I was inherently flawed and that the only way to fix myself was to damage my body with puberty blockers, cross sex hormones, and surgery.
I can't imagine the regret I would feel if I'd had my breasts cut off when I was still a teenager. I read story after story of detransitioners who regret that their bodies have been permanently changed by surgery and realize that they have to live the rest of their lives with the scars from transgender surgery.
If I'd been pushed to transition, I never would have gotten the help I needed to understand the trauma I endured and I would have been convinced that disassociating from my body was the only way I could manage the incredible feelings of distress I had about being trapped in my female body, and most of all, it would have prevented me from having the three beautiful children that have been a constant joy in my life.
It is heartbreaking to me that vulnerable children with a history of trauma like mine, children who are autistic, children who have internalized homophobia, and children who don't adhere to regressive stereotypes of how boys and girls are supposed to behave are being subjected to experimental interventions that damage their healthy bodies, especially when we know that the vast majority of them will resolve their feelings of dysphoria if allowed to progress naturally through puberty.
These are children who deserve our love and compassion and need skills to manage difficult feelings They also deserve our protection.
They need to hear the message loud and clear, No child is born in the wrong body.

Files:
Testify via Zoom: Yes
Zoom Method: Computer

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Friday, February 19, 2021 10:40 PM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-19-21 22:40

Details:
Bill: HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary
Position: Proponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Tracy Lynn Shannon
Email: shannontracy123@gmail.com
Phone: (281) 785-8968
City, State: Houston, TX
Written Statement: Greetings! I am a Transwidow. You probably have not heard of that before because of our existence, our stories never being acknowledged. A trans widow is the ex-wife of a man who broke his vows and abandoned the family to live as a woman. As trans widows, we have a unique vantage point and a front-row seat to observe the "transgender issue". What I learned in my 20 years of studying the origins and trajectory of this issue is that the issue is not the issue being discussed. In fact, "transgenderism" isn't what it is being portrayed to be at all. The originators of transgender medicine were pedophiles or friendly to pedophilia. They submitted a fraudulent body of evidence that has been handed down to the profiteers destroying healthy, functioning sexual organs for profit. Today's gender specialists are foisting an adult fetish upon innocent, young, vulnerable, sometimes abused, traumatized, and confused children. I know it is a fetish for adults because I witnessed it firsthand like many trans widows. But children certainly are not engaging in autogynephilia (being aroused by being the opposite sex). Instead, adults are foisting this fetish which has become normalized on innocent children who simply do not conform to rigid sex-based stereotypes. Having normalized adult "transgenderism" and started a gender transition industry the next logical step was to induct youth into this for-profit business model. Profit is not the only benefit. The fetishists need to legitimize transgender children existing to validate their own stories. You see, most of these adult men really don't have the history to support them being diagnosed as transgender. They weren't persistently and consistently demanding they were opposite sexed from the time they were children. Quite the opposite, many like the father of my three children had families of their own prior to transitioning. So, what led them to the transition path? Easy, the pornification of America. The dirty secret of transgenderism is the fetishism, the sissydom, and BDSM that is persistent among male and female trans-identified people. Sadly, girls who seem to want to escape the patriarchy find themselves in the leather daddy community having random sex in dark rooms and bathhouses and being submitted to horrific abuse in order to have sexual liaisons. This is the risky and seedy lifestyle that involves the use of "poppers" (street drugs/inhalants used to relax the anus for anal sex) and other street drugs are widely used. Alcohol, prostitution, and domestic violence are more prevalent in the trans community. This is the lifestyle you want to steer children towards by affirming the lie that they are trapped in the wrong body.

Aside from the fact that the doctors are playing God by trying to change a person's sex, it is morally and ethically wrong. The legislature has the responsibility to stop any industry that is out of control and harming children. The only identity being explored in affirmation-only gender therapy is the opposite sex of the child and that has a near 100% persistence rate for dysphoria and for surgical and chemical transition later. The affirmation-only model must be rejected in favor of the past model of watchful waiting which allows children to go through puberty. In this model of therapy, more than 80% of children desist and no longer suffer from dysphoria. The "experts" (who are profiting of a growing billion-dollar industry) say that the patient (child) can simply adapt if they change their minds. This is not true. A voice can never be changed back, stunted genital growth cannot fully be restored, and neither will the sexual function be normal if stunted.

A woman cannot reverse hair growth, hair removal is painful and expensive. We need to stop listening to the for-profit "experts" and start using some common sense when it comes to protecting children. The dubious claims of suicide risks should be wholesale rejected. We do not give surgeries to healthy people who do not need them because they threaten to kill themselves. Actually trans-identified people's risk of suicide jumps to 19 times the general rate after surgeries and chemical transition. Those aren't good results and this "treatment" should be rejected but it hasn't because those who made the recommendation are interested parties, not objective doctors and therapists.

Puberty blockers for kids are the same drugs (Lupron) given to sex offenders to chemically castrate them. Does this seem appropriate for children who are otherwise healthy? This isn't stopping early puberty, but stopping normal puberty which turns medicine on its head by creating an unnatural condition rather than treating one.
Leaving a child with underdeveloped genitalia has lifelong consequences for them especially as they engage in sexual activity as adults. They will be left unable to fully enjoy sex and with sexual organs that are underdeveloped and unlike adult peers of their age...and that is if they don't have surgery. If they have surgery the male will be left with a wound he will have to dilate for the rest of his life with a dildo-like device to keep the wound from closing. It will never function as a normal vagina. The female that has surgery to change her genitals will have her breasts removed (sometimes including the nipples tragically) and she will have forearm skin removed to fashion a penis that will look more like a fleshy baton and not like a penis and it will not function nor have the sensations of a penis. These surgeries even when "successful" are Frankensteinian in nature. It is abuse to even put a child on this medical pathway of mimicking the opposite sex through surgery and lifetime use of dangerous hormones. Furthermore, the use of puberty blockers is not approved by the FDA to treat dysphoria in children. A politically and ideologically driven counsel makes the recommendations for standards of care, these standards are frightening and are loosening all the time. Now a trans-identifying person merely needs to go to an informed consent doctor to get started on hormones and blockers because the requirement for therapy has been removed. Shouldn't children at least be given time to get used to their healthy, unmutilated God-given bodies before putting them on the transgender medical pathway? Children should have comorbid conditions and causation explored and adults really should too but this irresponsible quackery field of "medicine" doesn't do that, instead they go directly to affirmation only.

My experience with a gender therapist happened when I went to a therapy session for the purpose of marriage counseling. The therapist said that because my husband cross-dressed he, therefore, was transgender and would not know if he wants to be a man or a woman for a few months. She then informed me that I am a lesbian. Wait a minute? I thought we were able to say what our sexual orientation is especially if we are also choosing what sex we are. The inconsistency and hypocrisy were shocking. How does this pass as therapy or treatment? I have known kids transitioned because their parents had a dream that their child was the opposite sex. A local hospital I took my kids to brags about treating a girl for transgenderism who claimed she was a teenage boy. They have transitioned her to identify as a male, but what about that teenage identity part? That was never addressed. Is that not dysphoria as well? It was okay to tell her she is a boy but validating her teen identity at six years old was a problem? I notice the girl identifies according to her birth age now.

It is irresponsible to mutilate children at their request or the request of their parents. End this medical experimentation on children. Stop the bias and ideologically driven "treatment" of children. It is a shame we even have to debate this issue. Children should be protected from harm.

This is the life of trans-identified biological women hooking up as gay men, do you want this for these children?
https://www.vice.com/en_uk/article/wj9739/hook-up-apps-saunas-clubs-queer-trans-experience

https://cliniq.org.uk/wp-content/uploads/2017/12/CliniQ-TransGuys-landscape-ONLINE.pdf

Anonymous hooking up in saunas, is this the path you want to put these poor children on?
https://www.outlife.org.uk/fs155-what-is-sex-really-like-for-a-gay-trans-man

Here a famous FTM contributor gives advice on sex for FTM trans. I assure you that these teen trans are reading these things online, hearing about it on Tumblr and YouTube.

https://www.straight.com/life/lets-talk-about-ftm-sex
https://transgold.wordpress.com/happy-cruising-guide/cruising-en/
This is the advice found on a simple Google search, not hard to find, is this the life we want for trans-identifying biological females?
https://www.slideshare.net/FrancoisFilletteBerdougo/primed-the-back-pocket-guide-for-transmen-and-the-men-who-dig-them

Stop this insanity towards the children!!!!
Files:
Testify via Zoom: No
Zoom Method: N/A

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Sunday, February 21, 2021 9:57 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-21-21 09:56
Attachments: trans youth and mental health NAMI MT 2.17.21.pdf

Details:
Bill: HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary
Position: Opponent
Representing an Entity/Another Person: Yes
Organization: NAMI Montanan
Name: Matt Kuntz
Email: matt@namimt.org
Phone: (406) 443-7871
City, State: Helena, MT
Written Statement: Mr. Chair and Members of the Committee:
NAMI Montana opposed this bill because we believe that it is harmful for the legislature to specifically block this group's access to care. I have attached a letter by Missoula psychologist Bryan Cochran, Ph.D. that more fully describes mental health concerns of transgender youth that can be exacerbated through restricting access to appropriate medical care.

Thank you,
Matt Kuntz
Executive Director
Files: trans youth and mental health NAMI MT 2.17.21.pdf Testify via Zoom: No Zoom Method: N/A

Bryan N. Cochran, Ph.D.

February 17, 2021

To Matt Kuntz, Executive Director, Montana NAMI:

I am writing in regard to several bills in the legislature that have significant potential to harm transgender youth; these include HB 112, HB 113 (recently voted down on 1/26) and HB 427. As a leading agency working to address suicide and the mental health crisis in our state, I would like NAMI-Montana to be aware of how these bills would harm the health of some of Montana's most vulnerable youth. I am a licensed Montana psychologist with a clinical practice and a research program focused on the health and well-being of LGBTIQ+ individuals.

-Being transgender is not a mental illness in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5); however, transgender individuals are at risk of greater rates of suicidality, depression, and anxiety. Health scientists attribute these disparities to Minority Stress (Meyer, 2003), or the result of living in a society where one experiences regular victimization and discrimination. Higher levels of Minority Stress confer higher rates of mental health difficulties among transgender individuals.

-At present, rates of suicidality among transgender people are many times higher than the general population; several studies document that as many as 40% of transgender individuals report that they have made a suicide attempt (Haas et al., 2011, 2014).

- Discrepancies between one's gender identity and one's body (i.e., typically one's assigned sex) may result in Gender Dysphoria, a condition defined as psychological distress associated with the conflict between how one identifies and how one's body looks to themselves or to others. Not all transgender individuals experience Gender Dysphoria. For those who do, Gender Dysphoria lessens when they make social or medical transitions to align their gender presentation and their bodies with their sense of self. Published clinical practice guidelines urge medical providers and mental health providers to evaluate patients and clients for appropriateness of medical transitions and to provide support for transitioning individuals throughout the lifespan (WPATH, 2011).

-Hormone blocking treatment ranks among the most helpful interventions to reduce Gender Dysphoria among transgender youth. This treatment essentially "places a pause" on pubertal development. For transgender youth, physical development that does not match their gender identities can be extremely distressing. Medical interventions allow youth and their parents/guardians, along with their medical providers, to make informed and collaborative decisions to reduce Gender Dysphoria and Minority Stress.

-The bills that have been proposed in the Montana Legislature in 2021 thus far would: 1) limit the ability of medical providers to provide interventions that are widely considered to be standard care for transgender youth; 2) block transgender youth from access to medically necessary interventions; and 3) prevent transgender youth from participating in important social-developmental activities in school settings that align with their identities. These bills send

Licensed Psychologist #970
Missoula, Montana
Phone 406.381.2374

the same, clear message to transgender individuals in Montana: "you are neither welcome nor supported here". This message is a core contributor to Minority Stress among transgender youth; it will result in higher rates of mental health difficulties, as noted above.

-Research indicates that transgender individuals benefit from supportive parents/guardians, access to medical interventions that reduce Gender Dysphoria, and policies that affirm their rights as human beings. Whereas we cannot intervene in all of these arenas, preventing the state from passing harmful policies is, I believe, an ethical obligation for me as a mental health provider.

Thank you for your ongoing work to improve the health and well-being of Montanans; I believe that attention to this legislation is in alignment with your commitment to improving the mental health of all of our state's citizens.

Sincerely,

Bryan Cochran, Ph.D.

Licensed Psychologist #970
Missoula, Montana
Phone 406.381.2374

WITNESS STATEMENT

HUMAN RIGHTS CAMPAIGN®

House Judiciary Committee
Montana State Legislature
State Capitol
PO Box 201706
Helena, MT 59620-1706

February 21, 2021

Re: Human Rights Campaign Opposition to H.B. 427

Dear Chair Usher and Members of the Committee,

The Human Rights Campaign (HRC), on behalf of its thousands of supporters in Montana and three million members and supporters nationwide, thanks you for the opportunity to submit testimony to help inform your deliberation on H.B. 427. This bill is simply another unconscionable attack on the wellbeing of transgender youth, just as was H.B. 113. We urge you to swiftly reject this discriminatory legislation that would serve only to hurt youth, not to help them.

The Human Rights Campaign is America's largest civil rights organization working to achieve lesbian, gay, bisexual, transgender and queer (LGBTQ) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBTQ citizens and realize a nation that achieves fundamental fairness and equality for all.

As an advocate for LGBTQ young people, we know the critical role that compassionate, culturally competent care has in the life of transgender youth who simply seek to live as their authentic selves. Transgender kids deserve to be able to live their lives in a safe environment, to be able to be supported by the people who love them, and to get the health care that they need. The health care they receive should be based on science, consistent with medical best practices, and sensitive to the needs of the particular person. Legislation like H.B. 427 is contrary to those considerations and serves instead to stigmatize transgender people. That's why we condemn the piece of legislation before you today.

As with H.B. 113 before it, the bill before you purports to be in the best interest of transgender youth. It is important to understand that there are accepted professional standards of care relating to transgender youth, grounded in scientific research and supported by medical

experts. Also like H.B. 113 this bill does not solve any real problem. H.B. 113 would have prohibited meaningful access to medically-necessary care for transgender youth; this bill prohibits access to care that simply is not recommended for youth. As such, this bill seeks to insert the Montana legislature into the doctor-patient relationship with no purpose other than to signal a general distaste and disapproval of gender-affirming care and transgender people generally. **This bill, therefore, is not even rationally related to a legitimate government purpose.**

The Equal Protection Clause of the United States Constitution does not permit the government to target a certain segment of the population and subject them to harmful legislation on the basis of simple dislike. Laws must be, at minimum, rationally related to a legitimate government interest in order to satisfy the equal protection of the laws. Because transgender people are routinely subjected to discrimination, federal courts would likely apply a stricter test: is the law related to an important or a compelling government interest? H.B. 427 simply, flagrantly does not. It addresses no government interest whatsoever. It is merely a vehicle to express dislike and disapproval of transgender people. Laws based purely on animus will not pass constitutional muster.

Thank you for the opportunity to submit testimony, and we request that you immediately reject this counterfactual, harmful, discriminatory, and unconstitutional bill.

Sincerely,

Cathryn Oakley
State Legislative Director and Senior Counsel
Human Rights Campaign

WITNESS STATEMENT

February 22, 2021

To: Montana House Judiciary Committee

From: Matthew C. Brower, Executive Director of the Montana Catholic Conference

Re: Testimony in support of HB 427

Mr. Chairman and members of the committee, I currently serve as the Executive Director of the Montana Catholic Conference. I submit this testimony in support of HB 427 on behalf of the Roman Catholic bishops of Montana.

All persons regardless of gender identity deserve the respect and dignity that is theirs as human beings and should be treated with the same compassion and love to which all persons are entitled. Tragically, minors experiencing gender dysphoria are all too often pushed to the margins of society and denied their inherent dignity. Because this increasing population of young people is so vulnerable, it is essential they have access to appropriate and effective care.

Clearly, there is a need for effective treatment modalities. However, the exact causes of gender dysphoria, the risks and benefits of various medical treatments and the long-term success of these treatments in addressing suicides among this population are not yet adequately understood within the medical and scientific communities.

It is also important to note that while some claim these medical interventions are necessary in response to the extremely high rate of suicide among young people experiencing gender dysphoria, there is research suggesting that such interventions do not provide a mental health benefit over the long-term or resolve the problem of suicide commission.

We realize this is an emotionally-charged issue and understandably so. The bullying, ridicule and isolation experienced by our youth with gender dysphoria is both real and reprehensible. These young people need and deserve our unconditional love and support.

Given the serious and irreversible impact of some of these medical interventions and the questionable long-term benefits associated with such, we urge the medical and scientific communities to conduct further research regarding the causes of and appropriate treatments for gender dysphoria. Only then can we hope to provide these vulnerable young people effective and lasting treatment options that allow them to thrive and embrace the unique gift God has created each one of them to be.

Mr. Chairman and members of the committee, on behalf of the Montana Catholic Conference, I recommend a "do pass" on HB 427.

WITNESS STATEMENT

HB 427

My name is Colleen Wood, MD, and I am a pediatric endocrinologist in Billings, MT. I am writing testimony in opposition of HB 427.

To begin with, I would like to say that after 11 years of medical training and an additional 9 years of practice, I have learned that limiting patient options in care only diminishes good outcomes for patients.

I am a staunch believer in medical guidelines. They serve to provide the best outcomes for the most patients. Physicians are also liable for defending their decisions when they are not congruent with medical guidelines, and can be held liable if bad outcomes occur when guidelines are not followed. Currently, gender affirming surgeries are not routinely performed on children, as Endocrine Society guidelines recommend waiting until after age 18 for such procedures. An occasional top surgery may be performed on a case by case basis in people shortly before the 18th birthday, usually under research conditions, and only rarely (if ever) in Montana. "Bottom" surgeries are universally not performed prior to the 18th birthday. I personally have never referred a child for surgical intervention for the indication of gender dysphoria. This law is redundant, and unnecessary.

If the law is passed, however, it WILL have unintended and undesired consequences. While guidelines serve the majority of patients well, there is always an exception to the rule. The consequences of this law will be seen only within the walls of my exam room. This law would put these children at risk for substandard medical care because physicians may fear legal consequence of their decisions when gender dysphoria is on the problem list. This could delay essential medical care for diagnoses unrelated to gender dysphoria. For example, if a transgender boy presents with debilitating back pain from his large breasts, will the orthopedic surgeon be afraid to refer him for surgical reduction of that tissue because of this law, causing the child to live in pain until his 18th birthday because "gender dysphoria" is also on his problem list? A female child with the same problem would not be denied a similar surgery. Or, what about the child with a malignant breast lump that is found to be caused by a cancer mutation? Will that child be forced to undergo two separate surgeries→a lumpectomy prior to the age of 18, and then a double mastectomy after the age of 18 because he has "gender dysphoria" on HIS problem list? Will the oncologist fail to refer for appropriate surgical intervention due to fear of retribution from the state? I can assure you, there is no way to predict the myriad of comorbidities or problems that a person may have that would cause them to suffer needlessly because of a law like this.

This legislation is UNNECESSARY in the state of Montana and is attempting to solve a problem that DOES NOT EXIST and it INTERFERES with the patient-physician relationship.

Please consider this testimony and vote "NO" against HB 427.

WITNESS STATEMENT

HB 427

My name is Colleen Wood, MD, and I am a pediatric endocrinologist in Billings, MT. I am writing testimony in opposition of HB 427.

To begin with, I would like to say that, after 11 years of medical training and an additional 9 years of practice, I have learned that limiting patient options in care only diminishes good outcomes for patients.

I am a staunch believer in medical guidelines, as are most physicians. They serve to provide the best outcomes for the most patients. Physicians are also liable for defending their decisions when they are not congruent with medical guidelines, and can be held liable if bad outcomes occur when guidelines are not followed. Currently, gender affirming surgeries are not routinely performed on children, as Endocrine Society guidelines recommend waiting until after age 18 for such procedures. An occasional top surgery may be performed on a case by case basis in people shortly before the 18th birthday, usually under research conditions, and only rarely (if ever) in Montana. "Bottom" surgeries are universally not performed prior to the 18th birthday. I personally have never referred a child for surgical intervention for the indication of gender dysphoria. This law is redundant, and unnecessary.

If the law is passed, however, it will have unintended and undesired consequences. While guidelines serve the majority of patients well, there is always an exception to the rule. The consequences of this law will be seen only within the walls of my exam room. This law would put these children at risk for substandard medical care because physicians may fear legal consequence of their decisions when gender dysphoria is on the problem list. This could delay essential medical care for diagnoses unrelated to gender dysphoria. For example, if a transgender boy presents with debilitating back pain from his large breasts, will the orthopedic surgeon be afraid to refer him for surgical reduction of that tissue because of this law, causing the child to live in pain until his 18th birthday because "gender dysphoria" is also on his problem list? A female child with the same problem would not be denied a similar surgery. Or, what about the child with a malignant breast lump that is found to be caused by a cancer mutation? Will that child be forced to undergo two separate surgeries→a lumpectomy prior to the age of 18, and then a double mastectomy after the age of 18 because he has "gender dysphoria" on HIS problem list? Will the oncologist fail to refer appropriate surgical intervention due to fear of retribution from the state? I can assure you, there is no way to predict the myriad of comorbidities or problems that a person may have that would cause them to suffer needlessly because of a law like this.

This legislation is UNNECESSARY in the state of Montana and is attempting to solve a problem that DOES NOT EXIST and it INTERFERES with the patient-physician relationship.

Please consider this testimony and vote "NO" against HB 427.

WITNESS STATEMENT

Anna Louise Peterson, Ed.D., LCPC

402 East Beckwith Missoula, MT 59801 (406) 531-0659

As a Licensed Clinical Professional Counselor who works extensively with the transgender youth whom HB 427 purports to protect, I strongly oppose this needless, harmful bill. I come forward today because my work places me in a unique position to articulate the needs and experience of these young people. I speak with them daily. I witness the profound suffering their gender dysphoria causes them. And I work, with the tools at my disposal, to alleviate that suffering.

The surgical remedies enumerated in this bill are accessed by only a small portion of trans youth I work with. But when they are it is because parents, in close consultation with professionals, have come to understand that these treatments and procedures are absolutely essential for their child's well-being and even survival.

And surely it cannot be the place of government to interfere in a parent's right to provide for the well-being of their child.

Further, this bill is simply unnecessary because there are multiple, professionally-established safeguards which already effectively protect young people. Decisions about surgeries for trans youth are always the result of a prolonged and meticulous process involving parents, in consultation with mental health and medical professionals, guided by well-established best practices and Standards of Care, which provide multiple layers of protection for young patients and their parents. These are never decisions which are made lightly or rashly. They cannot be. The entire process is, by design, agonizingly drawn out.

In my practice, I support (and will continue to support) my young clients in accessing whatever medical treatments are medically indicated for the alleviation of their dysphoria. I do this not simply because these procedures reduce my clients' suffering, but because they enable them to flourish and thrive. I watch young clients who receive these treatments emerge from the grip of depression and anxiety. I see them begin to smile and laugh. I watch them come to life in deeply moving ways.

I have yet to see a single one of my clients be harmed by these procedures in any way.

Sadly, I have also seen what can happen when these young people are not able to access the treatments they need. They sink into depression, isolation, and thoughts of self-harm. I have had to sit beside young trans clients in the hospital in the aftermath of attempted suicide. My mission as a mental health professional is to support transgender youth as they emerge into themselves, into adulthood, into life. My mission is to help them stay alive long enough for that to happen. This bill will only make that task harder. It presents a grave threat to the very children it claims to protect. I urge this committee to vote no.

WITNESS STATEMENT

LEG Committee-House Judiciary testimony

From: leg-noreply@mt.gov
Sent: Sunday, February 21, 2021 10:58 AM
To: LEG Applications Email Backup; LEG Committee-House Judiciary testimony
Subject: Public Comment for Bill HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary Successfully Submitted on 02-21-21 10:58
Attachments: HCP Letter Against LGBTQ+ Bills 2.21.21.pdf

Details:
Bill: HB-427: Provide for youth health protection 2021-02-22 07:00 AM - (H) Judiciary
Position: Opponent
Representing an Entity/Another Person: Yes
Organization: MT Chapter of the American Academy of Pediatriacs
Name: Kathryn Lowe
Email: kmelland@yahoo.com
Phone: (406) 600-2033
City, State: Bozeman, MT
Written Statement: HB 427 Testimony

My name is Kathryn Lowe. I am a pediatrician with the MT American Academy of Pediatrics, representing 130 pediatricians in Montana. This organization's members rise in opposition to this bill.

In Montana, 52 of our 56 counties are health professional shortage areas and are medically underserved.

If Montana passes a law that inserts the government between physicians and our patients, we will struggle even more to recruit quality physicians to our medically underserved state. No physician wants to move to a state where the government interferes in the care we are able to provide to our patients. This bill would set a dangerous precedent that would impede our ability to recruit physicians to the state, ultimately worsening our current health professional shortage.

Not only does this bill interfere in the doctor-patient relationship, this bill also prohibits pediatricians from referring patients out of state. This is a gag order on physicians, and a first amendment issue. It holds Montana physicians liable for decisions made by an out of state physician, when we have no control or influence beyond the act of referral for evaluation. Given the lack of specialists in so many areas of pediatrics, we regularly send patients out of state for complex care. It is unheard of to have referrals lead to liability risk for the referring physician.

Medical care is complicated. To become a physician, one must complete a bachelor's degree, then go to medical school for a minimum of four years, then continue to train in residency for yet another 3 to 9 years. It takes this many years to become a physician because human beings are complicated, and each human being is unique. Through all these years of training, we learn how to provide nuanced individualized medical care to help each child thrive and develop into healthy adults. We ask that you respect our expertise and not interfere in our ability to take care of Montana's children.

Lastly, I have submitted a letter signed by 117 individual healthcare providers from throughout the state who also oppose this bill. I strongly urge you to join us in opposing this harmful bill.

Thank you.
Kathryn Lowe, MD
Files: HCP Letter Against LGBTQ+ Bills 2.21.21.pdf Testify via Zoom: Yes Zoom Method: Computer

WITNESS STATEMENT

February 21, 2021

Dear Senators and Representatives of the Montana legislature,

We, the undersigned healthcare providers, are deeply concerned about a number of bills currently in the Montana legislature that are discriminatory towards our LGBTQ+ patients and fellow community members. It is our duty to support and care for all people, and to speak out when we witness harmful discrimination of any sort, especially discrimination against vulnerable minority populations.

Research unequivocally shows that stigmatized and marginalized populations, such as our fellow Montanans who are LGBTQ+, suffer an increased number of mental and physical health disparities compared to individuals who are not LGBTQ+. Increased rates of suicide, cancer, substance abuse, and obesity are just a few of the health disparities that LGBTQ+ individuals often face. These increased health disparities are not inherent in being LGBTQ+. These health disparities are the result of the stigma, prejudice, and discrimination as well as the denial of civil and human rights that LGBTQ+ individuals face in so many areas of their lives.

When legislatures pass harmful bills that discriminate against LGBTQ+ individuals, the suicide rate increases even more. For example, when HB 2, the infamous "bathroom bill" in North Carolina passed, the number of calls to a suicide hotline for transgender individuals doubled. The passage of that bill led to a number of lives lost from suicide. Alternatively, passage of bills that decrease discrimination, such as marriage equality, significantly decreases suicide rates among LGBTQ+ individuals.

A number of bills in the Montana legislature right now would further increase the discrimination that our LGBTQ+ Montanans already face. Allowing businesses and medical providers to discriminate against LGBTQ+ patients, prohibiting transgender youth from playing on sports teams, prohibiting gender diverse Montanans from aligning their birth certificate with their identity, and interfering with the physician-patient relationship would all only further increase the stigma, prejudice, and discrimination that our LGBTQ+ Montanans already face.

We, as Montana healthcare providers, are deeply troubled. We are troubled by the implications of each discriminatory bill. We are also gravely concerned by the sheer number of anti-LGBTQ+ bills currently being discussed in our legislature. Our fellow LGBTQ+ Montanans are already experiencing harm simply by knowing these discussions are happening. We strongly urge you to oppose all bills that would further discriminate against our fellow LGBTQ+ Montanans.

Thank you.

Sincerely,

1	Adam Arlint	Kalispell	RMA
2	Adrienne Bull	Dillon	PA
3	Alanna Sherstad-Ray	Bozeman	MSW
4	Alex Kurtz	Glendive	MD
5	Anita Azam	Billings	MD
6	Anne Thomas	Bozeman	MD
7	Ashleigh Hursh	Butte	RMA
8	Ashley Shields	Dillon	RN
9	Betty Waren	Butte	RN
10	Brandy Colvin	Bozeman	RN, FNP
11	Brenna Cockburn	Billings	Medical Student
12	Brenna Ostertag	Missoula	Medical Student
13	Callie Riggin	Helena	MD
14	Carol Sisk	Bozeman	NP
15	Carrie Gleason	Billings	RN
16	Catherine Akin	Livingston	RN
17	Catherine Woods	Bozeman	MD
18	Cathy Waterman Grace	Bozeman	MD
19	Cathy White	Butte	MD
20	Cecilia Heck	Bozeman	Medical Student
21	Chloe Georgeton	Bozeman	APRN
22	Christine Hodgson	Bozeman	NP
23	Christine Walsh	Butte	BSN, RN, Student AGPCNP
24	Christopher Blevins	Billings Clinic	MD
25	Cindee McKee	Clancy	LPN/Healthcare Coalition Director
26	Cody Swank	Bozeman	EMT-B
27	Colette Kirchhoff	Bozeman	MD, FAAFP
28	Colleen Wood	Billings	MD
29	Courtney Honken	Bozeman	Medical student
30	Daniela Mestre	Billings	MD
31	Danika Comey	Bozeman	MPH
32	David Higgins	Billings Clinic	MD
33	David King	Bozeman Health	MD
34	Deborah Agnew	Billings	MD
35	Deborah Cades	Bozeman	PA-C
36	Deborah R Liptzin	Missoula	MD
37	Eric Lowe	Bozeman	MD, FACEP, FAEMS
38	Erin Allen	Billings	MD
39	Erin Grantham	Billings	MD
40	Haleigh James	Billings	MD
41	Hannah Wilson	Bozeman	LCPC
42	Harold Bruce	Butte	FNP

43	Heather Dinius	Butte	RMA
44	Heather Dziewit	Butte	MPH
45	Heather Marshall	Missoula	RN, CPN
46	Holly Hale	Bozeman	Medical Student
47	Jacob Meek	Bozeman	Medical Student
48	Jacqueline Wilson	Bozeman	MD
49	Jaime June	Bozeman	LC
50	Jalyn Huft	Ismay	MS
51	James Loeffelholz	Bozeman	MD
52	Jason Karro	Bozeman	MD
53	Jeff Scheihing	Bozeman	DO
54	Jennell Duey, MD	Billings	MD
55	Jennifer Bennet	Bozeman	CMA
56	Jennifer Wilkinson	Missoula	MD
57	Jerimiah Lysinger	Billings	MD
58	Jessica Cozzens	Billings	MD MPH
59	John Cole	Kalispell	MD
60	Jon McDonald	Billings	MD
61	Julie Topping	Bozeman	MD
62	Juliet Hansen MD	Bozeman Health Pediatrics	MD
63	Kaitlyn Frenk	Billings	PA-C
64	Katherine Kent	Billings	Medical Student
65	Kathryn Lowe	Bozeman	MD
66	Kathryn Lysinger	Billings Clinic	MD
67	Katie D'Ardenne	Bozeman	MD
68	Kaycee Snelling	Billings	RN
69	Lane McGill	Broadus	Medical Student
70	Larry Severa	Billings	MD
71	Laura Goodell	Bozeman	MD
72	Laura Kirschenmann	Billings	CPhT
73	Leslie Poling	Billings	MD
74	Linda Waring	Bozeman	MD
75	Lisa Gushwa	Bozeman	MD
76	Lisa Ponfick	Helena	MD
77	Lynne Foss	Bozeman	CPNP-PC
78	Maclean Turner	Billings	Medical Student
79	Madeline Cade	Helena	CNA
80	Marcella Fussell	Butte	RN
81	Maria Michael	Bozeman	MD
82	Maureen Sheehan	Bozeman	MD
83	Megan Evans	Dillon	MD
84	Megan Poser	Billings	NP

85	Meghan Johnston, MD	Bozeman,	MD
86	Melissa Casper	Bozeman	MD
87	Michael Herring	Bozeman Health	MD
88	Mike Spinelli	Bozeman Health	MD FACP
89	Natascha nicole Meissner Pearson	Bozeman	MD, PhD
90	Niamh Linehan	Bozeman	PA
91	Nicole Cottom	Dillon	FNP-BC
92	Pam Lehnen	Billings	LPN
93	Parker Blekkenk	Bozeman	Medical Student
94	Patricia Notario	Billings	MD FAAP
95	Philip A. Bain MD	Bozeman	MD
96	Quin Stevens	Kalispell	Medical Student
97	Rachel Schumacher	Dillon	RN
98	Robert McDermott	Billings Clinic	MD
99	Ryan Demmendaal	Bozeman	EMT, Medical Student
100	Ryan Schwanke	Billings	MD
101	Samantha Lewis	Bozeman	RN
102	Sarah Borduin	Butte	RN
103	Sarah Bronsky	Bozeman	MD
104	Sarah Morgan	Bozeman	MD
105	Seth Pincus	Bozeman	MD
106	Shawna Sprandel	Billings Clinic	LCSW
107	Shawna Yates	Butte	DO
108	Shelly Eagen	Billings	APNP
109	Sidney Williamson	Bozeman	MD
110	Stacey Pascoe	Bozeman Health	PharmD, BCPP, CPP
111	Stacey Ziegler	Bozeman Health	NP
112	Sydnee McKee	Bozeman	Medical Student
113	Tracy Fairbanks	Bozeman Health	MD
114	Tracy Karro	Bozeman	RN
115	Trisha Mitchell	Bozeman	MD
116	Vanessa Vandersloot	Billings Clinic	MA
117	Zoe Unruh	Billings Clinic	RN

WITNESS STATEMENT

HB 393

I'm Mars Scott. Previously, I've appeared before this Committee as the Chairperson of the Legislative Subcommittee of the Family Law Section of the State Bar of Montana, to support family law legislation that has been specifically vetted by the State Bar Family Law Section to improve the practice of family law for the citizens of the State of Montana. HB 393 was introduced by Representative Gillette independent of our Family Law Section's review processes, so today, I'm appearing before you as a private attorney to support this bill. I've practice family law for over 40 years, and for a little background, I am a Fellow in the American Academy of Matrimonial Attorneys which is a nationwide organization dedicated to the improvement of family law in all states.

Representative Gillette's bill incorporates the current recommendations of the American Academy of Matrimonial Lawyers for move cases. Like the Uniform Law Commission that you have heard about, the American Academy of Matrimonial Lawyers constantly works to promote the best practices specifically in the area of family law, based upon the ever-changing needs of people and families in our society and drawing from the collective experiences of family law practitioners. The goal is to make the practice of family law more predictable, more understandable, and less expensive for parties.

Representative Gillette sets forth four (4) additional factors recommended by the Academy for courts to consider and evaluate in cases where one parent wants to move with a child and that move significantly impacts the child's relationship with the other parent. And as you study the four factors, you do not need to be a lawyer to conclude they are reasonable factors for courts to consider. They are common sense. They simple provide additional guidance to the courts so they can do a better job of giving due consideration to all relevant facts and circumstances in a move case, with the predominant emphasis being placed on what outcome is most likely to serve the best interests of the child.

I strongly support this bill.

WITNESS STATEMENT

Testimony HB 393

Before House Judiciary Committee

February 22, 2021

By Gail H. Goheen (Proponent)

Thank you Chairman Usher and Members of the Judiciary Committee, for allowing me to appear before you. My name is Gail Goheen (G-O-H-E-E-N). I have been an attorney in Hamilton, Montana for over 40 years. During most of that time I have primarily specialized in the practice of family law, representing a wide range of clients. In that context, I have certainly been engaged many times in contested cases involving a parent wanting to relocate, with potential resulting problems for the other party's access to their children.

I agree with the reasoning and points made by the other proponents of HB 393 who have spoken here today. I wish to mention a few other considerations relating to this Bill.

In the late 1990's, Montana significantly changed its divorce laws relating to issues involving children, by removing from these statutes, the concept of "custodian"—a term that had seemed to make one party more of a "parent" than the other. Instead the term "parenting" was substituted throughout the affected statutes, and the focus became not on who was more "superior" when it came to their children (and thus who was in power to make decisions), but rather how to "allocate" the many rights AND the responsibilities that go along with creating an effective plan to parent children. This context is important when thinking about what happens when one parent desires to relocate and its impact on all parties concerned, especially the children. HB 393 assists in that analysis by spelling out some reasonably applicable considerations involved when one party wants to move with the children. In addition to the 4 new considerations referenced in HB 393, it should be noted that the Bill also incorporates by reference, the best interest considerations contained in Section 40-4-212 MCA.

Some of the more relevant "best interest" factors from that statute, which a Court would be considering in a relocation case are:

- the wishes of the child's parents;
- the wishes of the child;
- the relationship of the child with the child's parents and siblings, and with any other person who significantly affects the child's best interest;
- the child's adjustment to home, school, and community;
- the mental and physical health of all parties involved;
- chemical dependency or abuse issues;
- continuity and stability of care;
- developmental needs of the child; and

- physical abuse or threats, (which one of the other proponents will address in more detail)

The 40-4-212 "best interest" factors, when combined with those mentioned in the proposed Bill should provide a solid foundation for all Courts in analyzing how to handle relocation cases.

Attorneys practicing family law deal with a wide range of reasons for a party wanting to relocate—from "I just met a guy online who lives in Texas and I want to move there" to "I have a once in a lifetime career opportunity out of state" etc., etc.—and many different factors can be involved. Some cases seem to have clearer answers than others, and careful analysis is so important in making a good decision. HB 393 should provide Court's with better tools in that process.

Thank you for allowing me to testify today. I urge you to support the passage of HB 393.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 515 - Generally revise laws relating to child and family services
Sponsor: **Rep. Jeremy Trebas (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Denise Johnson	MCPA	✓		
[illegible]				
Dawn Alford	self	X		
Lacey Berg	Self	X		
Philip Berg	self	X		
Cathy Eakin	self	✓		
Ruth Rater	self	✓		
Heather Richards	Self	✓		
Chris Thompson	self	✓		
Dave Kester III	self	X		
Keith Newmeyer	Former Foster Parent	✓		
Brian Thompson	MCHA		✓	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 430 - Revise landlord tenant laws during emergency
Sponsor: **Rep. Kathy Whitman (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Allison Reinhardt	MAS		X	
Katjana Stutzer	Mont PIRG		X	
Keeton Sunchild	[illegible] Native Voice		+	
John SINRUD	MT Landlords Assoc.	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 478 - Generally revise DUI laws
Sponsor: **Rep. Derek Harvey (D)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Scott Larson	DOJ Forensic Science Division	✓		
Alan Dohme	DOJ	X		
Shelby DeMars	MT Police Protective Assoc	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 436 - Generally revise firearms laws
Sponsor: **Rep. Scot Kerns (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
SK Rossi	Bozeman / Missoula		X	
Warren Efferd	Self	X		
Garett Bacon	Self	X		
Kristen Smethurst	Western Native Voice		X	
Randi Pinocci	MSSA	X		
Tony Ritzsch	COTF - Packrabbum	X		
JACK RUNCK	ASUM		✓	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 502 - Create exemption from child-placement licensure requirements
Sponsor: **Rep. Lola Sheldon-Galloway (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Jeff Laszloffy	MFF	X		
~~Matthew Brower~~	~~Montana Catholic Conference~~		~~X~~	
Matthew Brower	Montana Catholic Conference	~~X~~	X	
Donna Wyrick	Self	X		
Rick Jore	Self	X		
Tony Rausch	"	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 439 - Revise landlord tenant laws
Sponsor: **Rep. Steven Galloway (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Allison Reinhardt	MAS		X	
Katjana Stutzer	Mont PIRG		X	
Keaton Swenson	Western Native Voice		f	
John Sinnud	MT Landlords Assoc	X		
Randy Pinocci	Self	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 427 - Provide for youth health protection
Sponsor: **Rep. John Fuller (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Lauren Wilson	MT AAP		X	
Stacey Anderson	MT Primary Care Assoc		X	
Keator Sunchild	Western Native Voice		X	
Erin Grantham MD	Billings Clinic		X	
Shawn Reagor	MT Human Rights Network		X	
Kelli Twoteeth	Western Native Voice		X	
SK Rossi	Bozeman / Missoula		X	
Kate Bick	Self		X	
Maggie Callow	Self		X	
Laurel Hesse	ACLU of Montana		X	
Jeff Laszloffy	MFF	X		
HARRIS HIMES	Big Sky Christian Center	X		
Garett Bacon	Self	X		
Donna Wyland	Self	X		
Ruth Rater	Self	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 451 - Generally revise time served requirements
Sponsor: **Rep. Robert Farris-Olsen (D)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
D. Sam Forstag	ACLU of MT	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 509 - Revising robocall fines
Sponsor: **Rep. Danny Tenenbaum (D)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info

NO VISITORS REGISTERED INTO THE COMMITTEE HEARING

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 503 - Revise laws relating to child protective services hearings
Sponsor: **Rep. Dennis Lenz (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Denise Johnson	MCPA	✓		
Dawn Ahrendt	Self	X		
Lacey Berg	self	X		
Philip Berg	self	X		
Nanette Gilbertson	MCAA	✓	W	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 435 - Generally revise civil liability laws for government
Sponsor: **Rep. Bill Mercer (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Amanda Curtis	MFPE		X	
Brian Thomson	MMIA / MCCHA	X		
Sam Forstag	ACLU of MT		✓	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 393 - Revise laws related to amendment of a parenting plan due to change in residence
Sponsor: **Rep. Jane Gillette (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Christopher Gillette		x		
Dawn England	Self	x		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 459 - Provide for certification of CPS workers with direct contact with children
Sponsor: **Rep. Dennis Lenz (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Lacey Berg		X		
Philip Berg		X		
Lauren Wilson			X	
Denise Johnson		✓		
Cathy Eakin	self	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 517 - Revise penalties related to underage marijuana possession and use
Sponsor: **Rep. Bill Mercer (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
SK Rossi	ACLU-MT		X	
Brian Thompson	MCAA	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 501 - Generally revise criminal procedure and criminal laws
Sponsor: **Rep. Jeremy Trebas (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Robin Thompson	NCAA		4	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 499 - Revise child abuse and neglect laws regarding reasonable efforts
Sponsor: **Rep. Jeremy Trebas (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Lacey Berg	Self	X		
Philip Berg	Self	X		
Denise Johnson	MCPA	✓		
Cathy Eaton	self	✓		
Dave Kesler III	self	✓		
Keith Newmeyer	Former Foster Parent	✓		
Brian Thompson	MCAA		X	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 463 - Revise timeline for restriction on gift instrument or instrument of donor intent
Sponsor: **Rep. Jeremy Trebas (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Derek Oestreicher	AG	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 449 - Revise pretrial release laws involving electronic monitoring
Sponsor: **Rep. Frank Garner (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Dan Smith	MT Police Assn	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 504 - Generally revise firearms and weapons laws
Sponsor: **Rep. Casey Knudsen (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
SK Ross	Bozeman / Missoula		X	
Randy Finocchi	MSSA	X		
Tony Rausch	SELF	X		
Garett Bacon	Self	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE JUDICIARY COMMITTEE

Monday, February 22, 2021
HB 519 - Revise laws regarding parenting time
Sponsor: **Rep. Katie Zolnikov (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Nevada Thompson	Self	X		
Chris Thompson (written testimony)	Self	X		
Heather Richards (had to leave)	Self	X		
JASON BEALS	SELF	X		
Pat Armstrong	Self	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

HB-515	Alyssa Lansverk	Laurel, Montana	guidos1stave@gmail.com	Proponent	
HB-515	Kelly Santiago	Billings, Montana	santiagokellye@gmail.com	Proponent	
HB-515	Dave Kesler III	Philipsburg	wiley454@yahoo.com	Proponent	
HB-515	Denise Johnson	Billings, Montana	ron_denise@hotmail.com	Proponent	MT Child Protection Alliance
HB-515	**Opponents**				
HB-515	Kelsen Young	Helena, Montana	kyoung@mcadsv.org	Opponent	MT Coalition Against Domestic & Sexual Violence
HB-515	Marti Vining	Great Falls, Montana	mvining@mt.gov	Opponent	DPHHS Child and Family Services
HB-515	**Informational Witness**				
HB-515	Dana Toole	Helena, Montana	dtoole@mt.gov	Informational Witness	MT Department of Justice

House Judiciary Zoom Testimony 02.22.2021

Bill	Name	Location	Email	Position	Affiliation
HB-517	**Opponent**				
HB-517	Erica Siate	Butte, Montana	ericasiate@gmail.com	Opponent	
HB-435	**Proponents**				
HB-435	Emily Dean	Helena, Montana	edean@mtsba.org	Proponent	MT School Boards Association
HB-435	Jule Walker	Helena, Montana	jwalker@mtsba.org	Proponent	MT School Boards Association
HB-435	Debra Silk	Helena, Montana	dsilk@mtsba.org	Proponent	MT School Boards Association
HB-435	Lance Melton	Helena, Montana	lmelton@mtsba.org	Proponent	MT School Boards Association
HB-435	Dennis Parman	Helena, Montana	dparman@mreamt.org	Proponent	MT Rural Education Association
HB-435	**Opponents**				
HB-435	Laurie Little Dog	Bozeman, Montana	laurielittledog@gmail.com	Opponent	
HB-435	Al Smith	Helena, Montana	monttla@mt.net	Opponent	MT Trial Lawyers Association
HB-435	Maysoon Simmons	Polson, Montana	maysimmons1@hotmail.com	Opponent	
HB-435	Josh Butterfly	Great Falls, Montana	butterflyjosh4@gmail.com	Opponent	Opening Doors
HB-393	**Proponents**				
HB-393	Gail Goheen	Corvallis, Montana	gail@goheenlaw.com	Proponent	
HB-393	P. Mars Scott	Missoula, Montana	pmarsscott@pmarsscott.com	Proponent	
HB-393	Grant Jamieson	Bozeman, Montana	grantj87@gmail.com	Proponent	
HB-393	Lori Harshbarger	Waterloo, Montana	lori@hardshbargerlawfirm.com	Proponent	
HB-459	**Proponents**				
HB-459	Alyssa Landsverk	Laurel, Montana	guidos1stave@gmail.com	Proponent	
HB-459	Kelly Santiago	Billings, Montana	santiagokellye@gmail.com	Proponent	
HB-459	**Opponents**				
HB-459	Marti Vining	Great Falls, Montana	mvining@mt.gov	Opponent	DPHHS Child and Family Services
HB-459	Ann Truesdell	Helena, Montana	atruesdell.naswmt@socialworkers.	Opponent	Nat. Association of Social Workers-Montana
HB-459	Kelsen Young	Helena, Montana	kyoung@mcadsv.org	Opponent	MT Coalition Against Domestic & Sexual Violence
HB-503	**Proponents**				
HB-503	Kelsen Young	Helena, Montana	kyoung@mcadsv.org	Proponent	MT Coalition Against Domestic & Sexual Violence
HB-503	Dave Kesler III	Philipsburg	wiley454@yahoo.com	Proponent	

HB-503	**Opponent**				
HB-503	Marti Vining	Great Falls, Montana	mvining@mt.gov	Opponent	DPHHS Child and Family Services
HB-451	**Proponents**				
HB-451	SJ Howell	Missoula, Montana	howell@montanawomenvote.org	Proponent	Montana Women Vote
HB-451	Laurie Little Dog	Bozeman, Montana	laurielittledog@gmail.com	Proponent	
HB-451	Kelsen Young	Helena, Montana	kyoung@mcadsv.org	Proponent	MT Coalition Against Domestic & Sexual Violence
HB-427	**Opponents**				
HB-427	Ann Truesdell	Helena, Montana	atruesdell.naswmt@socialworkers.	Opponent	Nat. Association of Social Workers
HB-427	Laura Terrill	Bozeman, Montana	laura.terrill@ppmontana.org	Opponent	Planned Parenthood Advocates of Montana
HB-427	Shawn Reagor	Helena, Montana	shawn@mhrn.org	Opponent	MT Human Rights Network
HB-427	Quinn Leighton	Helena, Montana	quinn@pridefoundation.org	Opponent	Pride Foundation
HB-427	SJ Howell	Missoula, Montana	howell@montanawomenvote.org	Opponent	Montana Women Vote
HB-427	Kathryn Lowe	Bozeman, Montana	kmelland@yahoo.com	Opponent	MT Chapter of the American Academy of Pediatrics
HB-427	Jennifer Preble	East Helena, Montana	jmpreble@msn.com	Opponent	
HB-427	Heather Zaluski	Clancy, Montana	hzaluski@shodair.org	Opponent	Shodair Children's Hospital
HB-427	Kelsen Young	Helena, Montana	kyoung@mcadsv.org	Opponent	MT Coalition Against Domestic & Sexual Violence
HB-427	Bryce Neal	Bozeman, Montana	brystin@hotmail.com	Opponent	
HB-427	Izzy Milch	Missoula, Montana	izzy@forwardmontana.org	Opponent	Forward Montana
HB-427	Anna Louise Peterson	Missoula, Montana	annalogology@protonmail.com	Opponent	
HB-427	John Joseph Ewan	Missoula, Montana	dreamingmeat@gmail.com	Opponent	
HB-439	**Opponent**				
HB-439	SJ Howell	Missoula, Montana	howell@montanawomenvote.org	Opponent	Montana Women Vote
HB-436	**Opponents**				
HB-436	Amanda Curtis	Helena, Montana	acurtis@mfpe.org	Opponent	MFPE
HB-436	Kelly Lynch	Helena, Montana	kelly.lynch@mtleague.net	Opponent	MT League of Cities and Towns
HB-430	**Opponent**				
HB-430	SJ Howell	Missoula, Montana	howell@montanawomenvote.org	Opponent	Montana Women Vote

HB-519	**Opponent**				
HB-519	Kelsen Young	Helena, Montana	kyoung@mcadsv.org	Opponent	MT Coalition Against Domestic & Sexual Violence
HB-519	**Informational Witnesses**				
HB-519	P. Mars Scott	Missoula, Montana	pmarsscott@pmarsscott.com	Informational Witness	State Bar-Family Law Section
HB-519	Gail H. Goheen	Corvallis, Montana	gail@goheenlaw.com	Informational Witness	
HB-449	**Proponents**				
HB-449	Wendy Lee Milleer	Bigfork, Montana	wlreeed@hotmail.com	Proponent	
HB-449	Kelsen Young	Helena, Montana	kyoung@mcadsv.org	Proponent	MT Coalition Against Domestic & Sexual Violence
HB-449	Mayre Floweers	Kalispell, Montana	mayreflowers@montanasky.net	Proponent	
HB-449	Jarren Carles	Kalispell, Montana	carles@aboutmontana.net	Proponent	
HB-449	**Opponent**				
HB-449	Shinnah Sullivan	Somers, Montana	montanafamily5@gmail.com	Opponent	
HB-504	**Opponent**				
HB-504	Kelly Lynch	Helena, Montana	kelly.lynch@mtleague.net	Opponent	MT League of Cities and Towns
HB-463	**Proponent**				
HB-463	David Bell	Missoula, Montana	dbell@alpinsurance.com	Proponent	
HB-499	**Proponents**				
HB-499	Kelly Santiago	Billings, Montana	santiagokellye@gmail.com	Proponent	
HB-499	Denise Johnson	Billings, Montana	ron_denise@hotmail.com	Proponent	MT Child Protection Alliance
HB-499	Kelsen Young	Helena, Montana	kyoung@mcadsv.org	Proponent	MT Coalition Against Domestic & Sexual Violence
HB-499	**Opponent**				
HB-499	Marti Vining	Great Falls, Montana	mvining@mt.gov	Opponent	DPHHS Child and Family Services
HB-499	**Informational Witness**				
HB-499	Tambi Masom	Kalispell, Montana	tlynnmasom317@gmail.com	Informational Witness	
HB-501	**Opponent**				
HB-501	Kelly Lynch	Helena, Montana	kelly.lynch@mtleague.net	Opponent	MT League of Cities and Towns
HB-515	**Proponents**				

ADDITIONAL DOCUMENTS

A Poem For A World Record Day

No matter how bad hearings get,
this group can always take it.
But with 20 bills ahead of you,
we're just not sure you'll make it.

We've never seen a feat like this
in all of our lobbying years.
To be among this group today
would bring us all to tears.

We hope that you will make it through
this monumental day.
So take this little bag of gifts.
As help in some small way.

A small, but good, Survival Kit
for those who need First Aid.
A drink, a little bit of food,
in case you start to fade.

We'll think of you, we wish you well
as you begin this task.
And quickly do The Peoples' Work
is all that we can ask.

GOOD LUCK !

Poem by: Greg Van Horssen
Gifts from: Greg Van Horssen, Jon Metropoulos, Bruce Spencer

MINUTES

MONTANA SENATE
67th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: Chair David Howard, on March 19, 2021 at 2:46 PM, in Room 317 Capitol

ROLL CALL

Members Present in the Committee Room:

Sen. David Howard, Chair (R)
Sen. Carl Glimm, Vice Chair (R)
Sen. Jen Gross, Vice Chair (D)
Sen. Steve Hinebauch (R)
Sen. Tom McGillvray (R)
Sen. Brad Molnar (R)

Members Present by Zoom Video Conference:

Sen. Diane Sands (D)

Members Excused:

Sen. Bob Keenan (R)
Sen. Mary McNally (D)

Members Absent: None

Staff Present:

Corina Hach, Legislative Branch
Gwyn Schooler, Committee Secretary
Hallie Swain, Remote Meeting Coordinator

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	HB 155, 3/12/2021; HB 235, 3/12/2021; HB 416, 3/12/2021; HB 459, 3/12/2021
Executive Action:	HB 574

EXECUTIVE ACTION ON HB 574

14:48:02 Sen. McGillvray

14:48:46 **Motion:** Sen. McGillvray moved that **HB 574 BE CONCURRED IN**.

Discussion:
14:49:20 Sen. Gross
14:49:25 Sen. McGillvray
14:50:11 Sen. Gross
14:50:33 Sen. Sands
14:51:14 Sen. Molnar
14:51:36 Sen. Sands
14:51:50 Sen. Molnar
14:52:03 Sen. McGillvray
14:52:18 Sen. Hinebauch

14:52:34 **Vote:** Motion carried 7-0 by voice vote. Sen. Glimm and Sen. Keenan were excused. Sen. McNally voted by proxy. Sen. McGillvray will carry the bill.

EXECUTIVE ACTION ON HB 291

14:52:59 Sen. Gross

14:53:47 **Motion:** Sen. McGillvray moved that **HB 291 BE CONCURRED IN**.

Discussion:
14:54:33 Sen. Hinebauch
14:54:44 Sen. Gross
14:55:02 Sen. Hinebauch
14:55:17 Chair Howard

14:55:21 Without objection, Sen. McGillvray withdrew the **BE CONCURRED IN** motion.

HEARING ON HB 235

Opening Statement by Sponsor:
14:55:49 Rep. Tom Welch (R), HD 72, opened the hearing on HB235, Create nutrition incentive program for SNAP participants.

Proponents' Testimony:
14:59:31 Sen. Dan Salomon, SD 43
15:00:13 Rachel Prevost, Montana Farmers Union

15:00:35 Sen. Glimm entered the meeting.

15:00:51 Ian Finch, Community Food and Agriculture Coalition (CFAC)
15:03:20 Makenna Sellers, Northern Plains Resource Council
15:04:41 Jean Branscum, CEO, Montana Medical Association

15:06:05 Rochelle Davies, president, Montana Academy of Nutrition and Dietetics
15:08:45 Tina Melton, citizen
EXHIBIT(phs55a01)

15:10:19 Sydney Barry, Montana Coalition Against Domestic and Sexual Violence
15:11:04 Donna Ditunno, Columbia Falls
EXHIBIT(phs55a02)

15:13:29 Lorianne Burhop, Montana Food Bank Network

Additional Testimony Received:
EXHIBIT(phs55a03)

Opponents' Testimony: None

Informational Testimony:
15:16:33 Christy Clark, Department of Agriculture (MDA)
15:17:03 Gene Hermanson, Department of Public Health and Human Services (DPHHS)
15:17:29 Cindy Trimp, MDA

Questions from Committee Members and Responses:
15:17:54 Sen. Hinebauch
15:18:28 Ms. Trimp, MDA
15:19:09 Rep. Welch
15:19:40 Sen. Hinebauch
15:19:46 Rep. Welch
15:20:00 Sen. Hinebauch
15:20:20 Rep. Welch
15:20:39 Sen. McGillvray
15:21:20 Rep. Welch
15:21:33 Mr. Finch, CFAC
15:22:02 Sen. McGillvray
15:22:09 Mr. Finch
15:22:29 Sen. McGillvray
15:22:45 Mr. Finch
15:23:09 Sen. McGillvray
15:23:18 Mr. Finch
15:23:40 Sen. Glimm
15:23:57 Mr. Finch
15:24:15 Sen. Glimm
15:24:29 Mr. Finch
15:25:06 Sen. Glimm
15:25:22 Mr. Finch
15:26:16 Sen. McGillvray
15:26:59 Rep. Welch
15:28:06 Chair Howard
15:28:32 Mr. Hermanson, DPHHS
15:29:11 Chair Howard
15:29:21 Mr. Hermanson
15:30:13 Chair Howard

15:30:23 Mr. Hermanson
15:31:29 Chair Howard
15:31:51 Mr. Hermanson
15:32:00 Chair Howard
15:32:30 Mr. Finch

Closing by Sponsor:
15:33:13 Rep. Welch

HEARING ON HB 155

Opening Statement by Sponsor:
15:36:31 Rep. Dennis Lenz (R), HD 53, opened the hearing on HB155, Revise laws related to reimbursement for certain Medicaid services.

Proponents' Testimony:
15:38:08 Rose Hughes, executive director, Montana Health Care Association (MHCA)
EXHIBIT(phs55a04)

Opponents' Testimony:
EXHIBIT(phs55a05)

Informational Testimony: None

Questions from Committee Members and Responses:
15:44:44 Sen. Gross
15:45:06 Rep. Lenz
15:45:21 Sen. Gross
15:45:39 Rep. Lenz
15:45:53 Sen. Gross
15:46:11 Rep. Lenz
15:46:35 Sen. Gross
15:46:43 Corina Hach, Legislative Services Division
15:47:01 Sen. Sands
15:47:14 Rep. Lenz
15:47:37 Sen. Sands
15:47:53 Rep. Lenz
15:48:21 Sen. Sands
15:48:30 Rep. Lenz
15:49:13 Sen. McGillvray
15:49:41 Ms. Hughes, MHCA

Closing by Sponsor:
15:51:09 Rep. Lenz

HEARING ON HB 416

Opening Statement by Sponsor:
15:53:24 Rep. Dennis Lenz (R), HD 53, opened the hearing on HB416, Establishing educational requirements for child welfare system supervisors.

Proponents' Testimony:
15:55:14 Denise Johnson, Montana Child Protection Alliance (MCPA)
15:58:21 Kelly Santiago, MCPA

Opponents' Testimony: None

Informational Testimony:
16:01:35 Bob Leach, citizen
16:04:50 Laura Smith, Department of Public Health and Human Services (DPHHS)

Questions from Committee Members and Responses:
16:05:29 Sen. McGillvray
16:05:45 Rep. Lenz
16:07:26 Sen. McGillvray
16:07:45 Rep. Lenz
16:08:11 Ms. Smith, DPHHS
16:10:07 Sen. Sands
16:10:27 Ms. Smith
16:11:01 Sen. Sands
16:11:29 Ms. Smith
16:12:14 Sen. Sands
16:12:26 Ms. Smith
16:12:47 Sen. Gross
16:13:26 Rep. Lenz
16:14:41 Chair Howard
16:16:08 Rep. Lenz

Closing by Sponsor:
16:16:31 Rep. Lenz

HEARING ON HB 459

Opening Statement by Sponsor:
16:18:48 Rep. Dennis Lenz (R), HD 53, opened the hearing on HB459, Provide for certification of CPS workers with direct contact with children.

Proponents' Testimony:
16:21:41 Lacey Berg, citizen
16:24:49 Denise Johnson, Montana Child Protection Alliance (MCPA)
16:28:21 Kelly Santiago, MCPA
16:31:43 Keith Newmeyer, citizen

Opponents' Testimony: None

Informational Testimony:
16:33:08 Laura Smith, Department of Public Health and Human Services (DPHHS)
16:33:46 Lucy Richards, Department of Labor and Industry (DLI)
EXHIBIT(phs55a06)

Questions from Committee Members and Responses:

16:34:13	Sen. Gross
16:34:51	Ms. Richards, DLI
16:36:17	Sen. Gross
16:36:41	Ms. Richards
16:37:09	Sen. Sands
16:37:35	Ms. Smith, DPHHS
16:37:48	Sen. Sands
16:38:07	Ms. Smith
16:39:05	Sen. Sands
16:39:54	Ms. Smith
16:40:41	Sen. Sands
16:40:53	Chair Howard
16:41:20	Ms. Smith
16:41:37	Chair Howard
16:41:53	Ms. Smith
16:42:51	Chair Howard
16:43:08	Ms. Smith
16:43:41	Chair Howard
16:44:28	Rep. Lenz

Closing by Sponsor:

16:45:28	Rep. Lenz
16:50:28	Chair Howard

ADJOURNMENT

Adjournment: 4:50 P.M.

_____
Gwyn Schooler, Secretary

gs

Additional Documents:

EXHIBIT(phs55aad.pdf)

PUBLIC HEALTH, WELFARE & SAFETY

Exhibit No. 6

Date 3/19/21

Bill No. HB 459

Schooler, Gwyn

From: leg-noreply@mt.gov
Sent: Tuesday, March 16, 2021 3:36 PM
To: LEG Applications Email Backup; LEG Committee-Senate Public Health testimony
Subject: Public Comment for Bill HB-459: Provide for certification of CPS workers with direct contact with children 2021-03-19 03:00 PM - (S) Public Health, Welfare and Safety Successfully Submitted on 03-16-21 15:36

Details:
Bill: HB-459: Provide for certification of CPS workers with direct contact with children 2021-03-19 03:00 PM - (S) Public Health, Welfare and Safety
Position: Informational Witness
Representing an Entity/Another Person: Yes
Organization: Dept. Labor & Industry Board of Behavioral Health
Name: Lucy Richards
Email: lurichards@mt.gov
Phone: (406) 461-8403
City, State: Helena, MT
Written Statement: I am Lucy Richards, Executive Officer for the Department of Labor & Industry Board of Behavioral Health. I am testifying as an informational witness and am available to answer any questions the committee might have on the bill as it relates to this department and board.
Files:
Testify via Zoom: Yes
Zoom Method: Computer

Montana State Legislature

2021 Session

Additional Documents

May include the following:

- **Business Report**
- **Roll Call -Attendance**
- **Standing Committee Reports**
- **Tabled Bills**
- **Fiscal Reports**
- **Roll Call Votes**
- **Informational Item's**
- **Witness Statements**
- **Visitor Register**
- **Any other type of documents such as:**

  Petitions, Pamphlets, Leaflets, Brochures, Emails, all documents given to Committee Secretary 24 hours after the meeting adjourned.

The original exhibit/items are on file at the Montana Historical Society and may be viewed there.

Montana Historical Society Archives, 225 N. Roberts, Helena, MT 59620-1201
Phone (406) 444-4774.
E-Document Specialist Susie Hamilton

BUSINESS REPORT

MONTANA SENATE
67th LEGISLATURE - REGULAR SESSION

SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Date: Friday, March 19, 2021 **Time:** 3:00 PM
Place: Capitol **Room:** 317

BILLS and RESOLUTIONS HEARD:

HB 155 - Revise laws related to reimbursement for certain Medicaid services - Rep. Dennis Lenz (R)
HB 235 - Create nutrition incentive program for SNAP participants - Rep. Tom Welch (R)
HB 416 - Establishing educational requirements for child welfare system supervisors - Rep. Dennis Lenz (R)
HB 459 - Provide for certification of CPS workers with direct contact with children - Rep. Dennis Lenz (R)

EXECUTIVE ACTION TAKEN:

HB 574 - Be Concurred In

Comments:

SEN. David Howard, Chair

MONTANA STATE SENATE
Roll Call
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

DATE: March 19, 2024

NAME	PRESENT	ABSENT/ EXCUSED
VICE CHAIR GLIMM		✓
VICE CHAIR GROSS	✓	
SEN. HINEBAUCH	✓	
SEN. KEENAN		✓
SEN. MCGILLVRAY	✓	
SEN. MCNALLY		✓
SEN. MOLNAR	✓	
SEN. SANDS	✓	
CHAIRMAN HOWARD	✓	
9 Committee Members		

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Public Health, Welfare and Safety** report that **House Bill 574** (third reading copy -- blue) **be concurred in**.

Signed: _____
Senator David Howard, Chair

To be carried by Senator Tom McGillvray

- END -

Committee Vote:
Yes 7, No 0
Fiscal Note Required __

HB0574001SC12922.slk

SENATE PROXY

I, Senator McNally, hereby authorize Senator GROSS to vote my proxy before the Senate Public Health, Welfare, and Safety meeting held on 03/19/2021, 2021.

Senator Signature

03/19/2021
Date

Said authorization is as follows: *(mark only one)*

- [x] All votes, including amendments.
- [ ] All votes as directed below on the listed bills, and all other votes.
- [ ] Votes only as directed below.

Bill No./Amendment No.	Aye	No
HB 574	X	

MONTANA STATE SENATE
Visitors Register
SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Friday, March 19, 2021
HB 235 - Create nutrition incentive program for SNAP participants
Sponsor: **Rep. Tom Welch (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Rachel Prevost	Montana Farmers Union	X		
Ian Finch	Community Food + Ag Coalition	X		
Makenna Sellers	Northern Plains Resource Council	X		
Jean Branscum	MT Medical Assn	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register
SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Friday, March 19, 2021
HB 155 - Revise laws related to reimbursement for certain Medicaid services
Sponsor: **Rep. Dennis Lenz (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Rose Hughes	MT Hlth Care Assn	X		
ROBERT KOACH	SELF	X		
Beth Brennemen	Disability Rts MT	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register
SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Friday, March 19, 2021
HB 416 - Establishing educational requirements for child welfare system supervisors
Sponsor: **Rep. Dennis Lenz (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info

No Visitors Registered into this Committee Meeting

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register
SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Friday, March 19, 2021
HB 459 - Provide for certification of CPS workers with direct contact with children
Sponsor: **Rep. Dennis Lenz (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
ROBERT LEDAKI	SELF	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Senate-Public Health, Welfare & Safety-Zoom Testimony 03.19.2021

Bill	Name	Location	Email	Position	Affiliation
HB-416	**Proponents**				
HB-416	Denise Johnson	Billings, Montana	deniseejohnson1961@gmail.com	Proponent	MT Child Protection Alliance
HB-416	Kelly Santiago	Billings, Montana	santiagokellye@gmail.com	Proponent	
HB-416	**Informational Witness**				
HB-416	Laura Smith	Helena, Montana	laura.smith@mt.gov	Informational Witness	MT DPHHS
HB-459	**Proponents**				
HB-459	Lacey Berg	Miles City, Montana	laceywhitney@gmail.com	Proponent	
HB-459	Denise Johnson	Billings, Montana	deniseejohnson1961@gmail.com	Proponent	MT Child Protection Alliance
HB-459	Kelly Santiago	Billings, Montana	santiagokellye@gmail.com	Proponent	
HB-459	**Informational Witness**				
HB-459	Laura Smith	Helena, Montana	laura.smith@mt.gov	Informational Witness	MT DPHHS
HB-459	Lucy Richards	Helena, Montana	lurichards@mt.gov	Informational Witness	Dept. Labor & Industry-Behavioral Health
HB-235	**Proponents**				
HB-235	Donna Ditunno	Columbia Falls, Montana	dditunno@yahoo.com	Proponent	
HB-235	Rochelle Davies	Billings, Montana	rochelle.davies406@gmail.com	Proponent	MT Academy of Nutrition and Dietetics
HB-235	Tina Melton	Helena, Montana	trmelton66@gmail.com	Proponent	
HB-235	Lorianne Burhop	Missoula, Montana	lburhop@mtfbn.org	Proponent	MT Food Bank Network
HB-235	Sydney Barry	Helena, Montana	sbarry@mcadsv.com	Proponent	MT Coalition Against Domestic and Sexual Violence
HB-235	**Informational Witness**				
HB-235	Christy Clark	Helena, Montana	cclark@mt.gov	Informational Witness	MT Department of Agriculture
HB-235	Gene Hermanson	Helena, Montana	ghermanson2@mt.gov	Informational Witness	MT DPHHS
HB-235	Cindy Trimp	Helena, Montana	cindy.trimp@mt.gov	Informational Witness	MT Department of Agriculture

MINUTES

MONTANA SENATE
67th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: Chair David Howard, on March 24, 2021 at 2:45 PM, in Room 317 Capitol

ROLL CALL

Members Present in the Committee Room:

Sen. David Howard, Chair (R)
Sen. Carl Glimm, Vice Chair (R)
Sen. Mary McNally (D)
Sen. Brad Molnar (R)
Sen. Diane Sands (D)

Members Present by Zoom Video Conference:

Sen. Jen Gross, Vice Chair (D)
Sen. Steve Hinebauch (R)
Sen. Tom McGillvray (R)

Members Excused:

Sen. Bob Keenan (R)

Members Absent: None

Staff Present:

Corina Hach, Legislative Branch
Gwyn Schooler, Committee Secretary
Hallie Swain, Remote Meeting Coordinator

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	HB 398, 3/16/2021; HB 423, 3/16/2021; HB 426, 3/16/2021; HB 477, 3/16/2021; SR 94, 3/16/2021
Executive Action:	HB 299; HB 307; HB 328; HB 364; HB 459

EXECUTIVE ACTION ON HB 299

14:45:24 **Motion:** Sen. Glimm moved that **HB 299 BE CONCURRED IN**.

Discussion:
14:45:50 Sen. Gross

14:46:12 Sen. Sands entered the meeting.

14:46:19 Sen. Glimm
14:46:50 Chair Howard
14:46:58 Sen. Gross

14:47:55 **Vote:** Motion failed 3-6 by roll call vote with Sen. Gross, Sen. McNally and Sen. Sands voting aye. Sen. Keenan and Sen. Molnar voted by proxy.

14:48:46 **Motion/Vote:** Sen. Glimm moved that **HB 299 BE TABLED AND THE VOTE REVERSED**. Sen. Keenan and Sen. Molnar were excused. Motion carried 7-0 by voice vote.

EXECUTIVE ACTION ON HB 307

14:49:18 **Motion:** Sen. Glimm moved that **HB 307 BE CONCURRED IN**.

Discussion:
14:50:04 Sen. Gross
14:50:38 Sen. Sands
14:50:55 Sen. McGillvray
14:51:20 Sen. Sands
14:51:34 Sen. McGillvray

14:52:05 **Vote:** Motion carried unanimously by voice vote. Sen. Keenan and Sen. Molnar voted by proxy. Sen. Sands will carry the bill.

EXECUTIVE ACTION ON HB 328

14:52:48 **Motion:** Sen. Glimm moved that **HB 328 BE CONCURRED IN**.

Discussion:
14:53:20 Sen. Glimm
14:53:40 Sen. Sands
14:53:43 Sen. McNally

14:53:52 **Vote:** Motion carried unanimously by voice vote. Sen. Keenan and Sen. Molnar voted by proxy. Sen. McNally will carry the bill.

EXECUTIVE ACTION ON HB 364

14:54:23 **Motion:** Sen. Glimm moved that **HB 364 BE CONCURRED IN**.

Discussion:
14:54:59 Sen. Sands

14:55:20 **Vote:** Motion carried unanimously by voice vote. Sen. Keenan and Sen. Molnar voted by proxy. Sen. McGillvray will carry the bill.

EXECUTIVE ACTION ON HB 459

14:55:57 **Motion:** Sen. Glimm moved that **HB 459 BE CONCURRED IN**.

14:56:18 **Motion:** Sen. Glimm moved that **HB 459 BE AMENDED**.
EXHIBIT(phs58a01)

14:56:44 **Vote:** Motion carried unanimously by voice vote. Sen. Keenan and Sen. Molnar voted by proxy.

14:57:06 **Motion:** Sen. Glimm moved that **HB 459 BE CONCURRED IN AS AMENDED**.

Discussion:
14:57:15 Sen. Gross
14:57:40 Chair Howard
14:57:43 Sen. Gross
14:57:58 Sen. Sands
14:58:37 Sen. Gross

14:58:59 **Vote:** Motion carried unanimously by voice vote. Sen. Keenan and Sen. Molnar voted by proxy. Sen. Glimm will carry the bill.

HEARING ON HB 477

Opening Statement by Sponsor:
15:00:33 Rep. Katie Zolnikov (R), HD 45, opened the hearing on HB477, Generally revise marriage and family therapist laws.

Proponents' Testimony:
15:02:08 Andrea Foran, board member, Montana Association for Marriage and Family Therapy
15:05:12 Nicholas Griffith, Montana Chapter, American Association for Marriage and Family Therapists
EXHIBIT(phs58a02)

Additional Testimony Received:
EXHIBIT(phs58a03)

Opponents' Testimony: None

Informational Testimony:
15:06:12 Lucy Richards, executive officer, Board of Behavioral Health, Department of Labor and Industry
EXHIBIT(phs58a04)

Questions from Committee Members and Responses:
15:06:47 Sen. McGillvray
15:07:15 Rep. Zolnikov
15:07:26 Sen. McGillvray
15:08:04 Rep. Zolnikov
15:08:43 Sen. McGillvray
15:08:57 Rep. Zolnikov

Closing by Sponsor:
15:09:12 Rep. Zolnikov

15:10:22 Chair Howard passed the duties of the chair to Vice Chair Glimm.

HEARING ON SR 94

Opening Statement by Sponsor:
15:10:38 Sen. David Howard (R), SD 29, opened the hearing on SR94, Confirm Governor's appointees to the Board of Public Assistance.

Proponents' Testimony:
15:11:45 Sharon Bonogofsky-Parker, Governor's nominee
EXHIBIT(phs58a05)

15:13:54 Danielle Shyne, Governor's nominee
EXHIBIT(phs58a06)

15:15:36 Liane Taylor, Boards and Appointments advisor, Governor's office (GOV)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:
15:17:02 Sen. Sands
15:17:19 Ms. Taylor, GOV
15:17:34 Sen. Sands
15:18:21 Ms. Bonogofsky-Parker, nominee
15:20:04 Sen. Sands
15:20:19 Ms. Shyne, nominee
15:21:50 Sen. McGillvray
15:22:18 Ms. Shyne

Closing by Sponsor:
15:23:47 Sen. Howard

15:23:57 Sen. Howard resumed the duties of the chair.

HEARING ON HB 423

Opening Statement by Sponsor:
15:24:10 Rep. Dennis Lenz (R), HD 53, opened the hearing on HB423, Revise laws to provide for additional screening of newborn infants.
EXHIBIT(phs58a07)

15:28:38 Sen. Molnar entered the meeting.

Proponents' Testimony:
15:30:47 Aimee Grmoljez, Billings Clinic
15:31:28 Joe Monaco, Beaverton, Oregon
15:32:05 Dr. Michael Gelb, University of Washington
15:36:44 Mr. Monaco, Beaverton
15:42:42 Ashley Monaco, Beaverton

Opponents' Testimony: None

Informational Testimony:
15:47:50 Laura Smith, Department of Public Health and Human Services

Questions from Committee Members and Responses:
15:48:58 Sen. McNally
15:49:34 Rep. Lenz
15:51:08 Sen. McNally
15:51:16 Rep. Lenz
15:52:19 Sen. McGillvray
15:53:16 Rep. Lenz
15:54:04 Sen. McGillvray
15:54:15 Rep. Lenz
15:54:25 Sen. McGillvray
15:54:36 Rep. Lenz
15:55:17 Sen. McGillvray
15:55:34 Rep. Lenz
15:55:44 Sen. McNally
15:56:01 Rep. Lenz
15:56:05 Sen. McNally
15:56:17 Rep. Lenz
15:56:23 Sen. McNally
15:56:51 Rep. Lenz
15:57:13 Sen. McNally
15:57:44 Rep. Lenz
15:58:08 Sen. Molnar
15:58:41 Rep. Lenz
15:59:01 Sen. Glimm
15:59:55 Ms. Monaco, Beaverton

Closing by Sponsor:
16:01:15 Rep. Lenz

HEARING ON HB 398

Opening Statement by Sponsor:
16:03:36 Rep. Dennis Lenz (R), HD 53, opened the hearing on HB398, Allow legislators to review child and family ombudsman records.

Proponents' Testimony:
16:05:05 Dana Toole, Special Services Bureau chief, Department of Justice
16:06:08 Beth Brenneman, Disability Rights Montana
16:07:23 Matt Furlong, president, Montana Child Protection Alliance (MCPA)
16:09:06 Dave Kesler, Philipsburg
EXHIBIT(phs58a08)

16:12:01 Blaine Bradshaw, Granite County
16:12:56 Bob Leach, Helena
16:13:40 Kelly Santiago, citizen
16:14:04 Denise Johnson, communications director, MCPA

Opponents' Testimony: None

Informational Testimony:
16:14:49 Laura Smith, Department of Public Health and Human Services

Questions from Committee Members and Responses: None

Closing by Sponsor:
16:15:18 Rep. Lenz

HEARING ON HB 426

Opening Statement by Sponsor:
16:16:02 Rep. Dennis Lenz (R), HD 53, opened the hearing on HB426, Revise laws regarding interactions between DPHHS and child and family ombudsman.

Proponents' Testimony:
16:18:00 Dana Toole, Special Services Bureau chief, Department of Justice (DOJ)
16:19:46 Matt Furlong, president, Montana Child Protection Alliance (MCPA)
EXHIBIT(phs58a09)

16:22:31 Beth Brenneman, Disability Rights Montana
16:23:45 Dave Kesler, Philipsburg
16:27:07 Blaine Bradshaw, Granite County
16:28:09 Bob Leach, Helena
16:29:48 Kelly Santiago, board member, MCPA
16:32:39 Denise Johnson, communications director, MCPA

Opponents' Testimony: None

Informational Testimony:
16:34:49 Laura Smith, Department of Public Health and Human Services (DPHHS)

Questions from Committee Members and Responses:
16:35:30 Sen. Glimm
16:35:56 Ms. Smith, DPHHS
16:36:34 Sen. Sands
16:37:05 Rep. Lenz
16:38:26 Sen. Sands
16:39:00 Rep. Lenz
16:39:43 Sen. Glimm
16:40:00 Ms. Toole, DOJ
16:42:09 Sen. Glimm
16:42:28 Ms. Toole
16:43:47 Sen. Glimm
16:44:12 Ms. Smith
16:45:17 Sen. Glimm

Closing by Sponsor:
16:45:30 Rep. Lenz

ADJOURNMENT

Adjournment: 4:48 PM

_____
Gwyn Schooler, Secretary

gs

Additional Documents:

EXHIBIT(phs58aad.pdf)

PUBLIC HEALTH, WELFARE & SAFETY

Exhibit No. 1

Date 3/24/21

Bill No. HB 459

Amendments to House Bill No. 459
3rd Reading Copy

For the (S) Public Health, Welfare and Safety

Prepared by Sue O'Connell
03/23/2021, 03:00:01

1. Page 3, line 2.
Strike: "license"
Insert: "certificate"

- END -

Explanation - Note: Because the page and line numbers referred to in these amendment instructions are required to match the page and line numbers of the official bill version being amended, they will not necessarily match the page and line numbers shown in any related Amendments in Context document.

demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust. The board may deny the ~~license~~ certificate if it determines that the applicant is not sufficiently rehabilitated.

NEW SECTION. **Section 5. Certificate renewal -- continuing education.** A certified child protection specialist shall renew the specialist's certification annually using a process specified by board rule, which must include:

(1) payment of a fee prescribed by the board; and

(2) proof of completion of at least 20 hours of continuing education developed or approved by the department, which may include any topic listed in subsection (2) of [section 4] and must include at least one unit focused on:

(a) ethics; and

(b) recent developments in governing law or rule.

NEW SECTION. **Section 6. Implementation of certification requirement for child protection specialists.** (1) A person hired by the department for a child-facing position after [the effective date of this act] shall become a certified child protection specialist pursuant to [sections 1 through 5] before beginning work that involves interaction with minors.

(2) A person already employed by the department in a child-facing position before [the effective date of this act] shall obtain child protection specialist certification pursuant to [sections 1 through 5] by October 1, 2023.

(3) For the purpose of this section, "child-facing position" means an employee role under this chapter that involves regular interaction with minors, including but not limited to investigating reports of child abuse, neglect, or endangerment.

Section 7. Section 37-22-201, MCA, is amended to read:

"**37-22-201. Duties of board.** The board:

(1) shall recommend prosecutions for violations of 37-22-411, 37-23-311, Title 37, chapter 35, ~~and~~ Title 37, chapter 37, and [sections 1 through 5], to the attorney general or the appropriate county attorney, or

Montana State Legislature

2021 Session

Additional Documents

May include the following:

- **Business Report**
- **Roll Call -Attendance**
- **Standing Committee Reports**
- **Tabled Bills**
- **Fiscal Reports**
- **Roll Call Votes**
- **Informational Item's**
- **Witness Statements**
- **Visitor Register**
- **Any other type of documents such as:**

  Petitions, Pamphlets, Leaflets, Brochures, Emails, all documents given to Committee Secretary 24 hours after the meeting adjourned.

The original exhibit/items are on file at the Montana Historical Society and may be viewed there.

Montana Historical Society Archives, 225 N. Roberts, Helena, MT 59620-1201
Phone (406) 444-4774.
E-Document Specialist: Susie Hamilton SHamilton@mt.gov

BUSINESS REPORT

MONTANA SENATE
67th LEGISLATURE - REGULAR SESSION

SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Date: Wednesday, March 24, 2021 **Time:** 3:00 PM
Place: Capitol **Room:** 317

BILLS and RESOLUTIONS HEARD:

HB 398 - Allow legislators to review child and family ombudsman records - Rep. Dennis Lenz (R)
HB 423 - Revise laws to provide for additional screening of newborn infants - Rep. Dennis Lenz (R)
HB 426 - Revise laws regarding interactions between DPHHS and child and family ombudsman - Rep. Dennis Lenz (R)
HB 477 - Generally revise marriage and family therapist laws - Rep. Katie Zolnikov (R)
SR 94 - Confirm Governor's appointees to the Board of Public Assistance - Sen. David Howard (R)

EXECUTIVE ACTION TAKEN:

HB 299 - Tabled
HB 307 - Be Concurred In
HB 328 - Be Concurred In
HB 364 - Be Concurred In
HB 459 - Be Concurred In as Amended

Comments:

SEN. David Howard, Chair

MONTANA STATE SENATE
Roll Call
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

DATE: March 24, 2021

NAME	PRESENT	ABSENT/ EXCUSED
VICE CHAIR GLIMM	✓	
VICE CHAIR GROSS	✓	
SEN. HINEBAUCH	✓	
SEN. KEENAN		✓
SEN. MCGILLVRAY	✓	
SEN. MCNALLY	✓	
SEN. MOLNAR		✓
SEN. SANDS		✓
CHAIRMAN HOWARD	✓	
9 Committee Members		

COMMITTEE FILE COPY

BILL TABLED NOTICE

SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

The **SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE** TABLED

HB 299 - Revise insurance requirements for diabetes self-management education - Rep. Mary Ann Dunwell (D)

by motion, on **Wednesday, March 24, 2021** (PLEASE USE THIS ACTION DATE IN LAWS BILL STATUS).

(For the Committee)

(For the Secretary of the Senate)

10:30a.m. / 3/25
(Time) (Date)

March 24, 2021 (5:28pm) Gwyn Schooler, Secretary Phone: 444-7363

SENATE STANDING COMMITTEE REPORT

March 24, 2021

Mr. President:

We, your committee on **Public Health, Welfare and Safety** report that **House Bill 307** (third reading copy -- blue) **be concurred in**.

Signed: _____
Senator David Howard, Chair

To be carried by Senator Diane Sands

- END -

Committee Vote:
Yes 9, No 0
Fiscal Note Required _X_

HB0307001SC13941.slk

SENATE STANDING COMMITTEE REPORT

March 24, 2021

Mr. President:

We, your committee on **Public Health, Welfare and Safety** report that **House Bill 328** (third reading copy -- blue) **be concurred in**.

Signed: _____
Senator David Howard, Chair

To be carried by Senator Mary McNally

- END -

Committee Vote:
Yes 9, No 0
Fiscal Note Required _X_

HB0328001SC12607.slk

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Public Health, Welfare and Safety** report that **House Bill 364** (third reading copy -- blue) **be concurred in**.

Signed: _____
Senator David Howard, Chair

To be carried by Senator Tom McGillvray

- END -

Committee Vote:
Yes 9, No 0
Fiscal Note Required _X_

HB0364001SC12922.slk

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Public Health, Welfare and Safety** report that **House Bill 459** (third reading copy -- blue) **be concurred in as amended**.

Signed: _____
Senator David Howard, Chair

To be carried by Senator Carl Glimm

And, that such amendments read:

1. Page 3, line 2.
Strike: "license"
Insert: "certificate"

- END -

Committee Vote:
Yes 9, No 0
Fiscal Note Required _X_

HB0459002SC15238.slk

MONTANA STATE SENATE
Roll Call Vote
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

DATE 3/24/21 BILL NO HB 299 MOTION NO.
MOTION: be concurred in

NAME	AYE	NO	Proxy
VICE CHAIR GLIMM		✓	
VICE CHAIR GROSS	✓		
SEN. HINEBAUCH		✓	
SEN. KEENAN		✓	✓
SEN. MCGILLVRAY		✓	
SEN. MCNALLY	✓		
SEN. MOLNAR		✓	✓
SEN. SANDS	✓		
CHAIRMAN HOWARD		✓	
9 COMMITTEE MEMBERS			

SENATE PROXY

I, Senator Brad Molnar, hereby authorize Senator _____ to vote my proxy before the Senate Public Health, Welfare, and Safety meeting held on 3-24-21, 2021.

Brad Molnar
Senator Signature

3-24-21
Date

Said authorization is as follows: *(mark only one)*

- ☐ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

Bill No./Amendment No.	Aye	No
HB 299		X
Reverse and table	X	
HB 307	X	
HB 328	X	
HB 364	X	
HB 459 Amend 459,1,2	X	
HB 459 As Amended	X	

SENATE PROXY

I, Senator Bob Keenan, hereby authorize Senator Carl Colimon to vote my proxy before the Senate Public Health, Welfare, and Safety meeting held on 3-24-21, 2021.

Bob Keenan
Senator Signature

3-24-21
Date

Said authorization is as follows: *(mark only one)*

- ☐ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

Bill No./Amendment No.	Aye	No
HB 299		X
Reverse and Table	X	
HB 307	X	
HB 328	X	
HB 364	X	
HB 459 Amend 459.1.2	X	
HB459 As Amended	X	

MONTANA STATE SENATE
Visitors Register
SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Wednesday, March 24, 2021
HB 477 - Generally revise marriage and family therapist laws
Sponsor: **Rep. Katie Zolnikov (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Andrea Foran	MAMFT	✓		
Nik Griffith	MAMFT	✓		
Bob Lenoch	Self	✓		
Matt Furlong	Montana Child Protection Alliance	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register
SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Wednesday, March 24, 2021
SR 94 - Confirm Governor's appointees to the Board of Public Assistance
Sponsor: **Sen. David Howard (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Liane Taylor	GOV	↘		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register
SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Wednesday, March 24, 2021
HB 423 - Revise laws to provide for additional screening of newborn infants
Sponsor: **Rep. Dennis Lenz (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Dave Kesler Tel	SelF	X		
Anne GRINDER	Billings Clinic	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register
SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Wednesday, March 24, 2021
HB 398 - Allow legislators to review child and family ombudsman records
Sponsor: **Rep. Dennis Lenz (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Dave Kesler III	Self	^		
Blaine Bradshaw	Self	X		
Dana Toole	DOJ	X		
Bob Gough	Self	X		
Matt Furlong	Montana Child Protection Alliance	X		
Bob Breuneman	Disability Rights MT	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register
SENATE PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

Wednesday, March 24, 2021
HB 426 - Revise laws regarding interactions between DPHHS and child and family ombudsman
Sponsor: **Rep. Dennis Lenz (R)**

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Dave Kesler ##	Self	X		
Blaine Bradshaw	Self	X		
Dana Toole	DOJ	X		
Bob Lorch	Self	X		
Matt Fuchs	Montana Child Protection Alliance	X		
Beth Brenneman	Disability Rights MT	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Senate-Public Health, Welfare & Safety-Zoom Testimony 03.24.2021

Bill	Name	Location	Email	Position	Affiliation
HB-398	**Proponents**				
HB-398	Kelly Santiago	Billings, Montana	santiagokellyc@gmail.com	Proponent	
HB-398	Denise Johnson	Billings, Montana	denisecjohnson1961@gmail.com	Proponent	Child Protection Alliance
HB-398	**Informational Witness**				
HB-398	Laura Smith	Helena, Montana	laurasmith@mt.gov	Informational Witness	DPHHS
HB-398	Kellie Richetti	Helena, Montana	kellie.richetti@mt.gov	Informational Witness	DPHHS
HB-423	**Proponents**				
HB-423	Joe Monaco	Portland, Oregon	joe.monaco@me.com	Proponent	
HB-423	Dr. Michael Gelb	Seattle, Washington	gelb@chem.washington.edu	Proponent	
HB-423	Ashley Monaco	Portland, Oregon	ashley_monaco@yahoo.com	Proponent	
HB-423	**Informational Witness**				
HB-423	Laura Smith	Helena, Montana	laurasmith@mt.gov	Informational Witness	DPHHS
HB-426	**Proponents**				
HB-426	Kelly Santiago	Billings, Montana	santiagokellyc@gmail.com	Proponent	
HB-426	Denise Johnson	Billings, Montana	denisecjohnson1961@gmail.com	Proponent	Child Protection Alliance
HB-426	**Informational Witness**				
HB-426	Laura Smith	Helena, Montana	laurasmith@mt.gov	Informational Witness	DPHHS
HB-477	**Informational Witness**				
HB-477	Lucy Richards	Helena, Montana	lurichards@mt.gov	Informational Witness	Dept. Labor and Industry Board of Behavioral Health